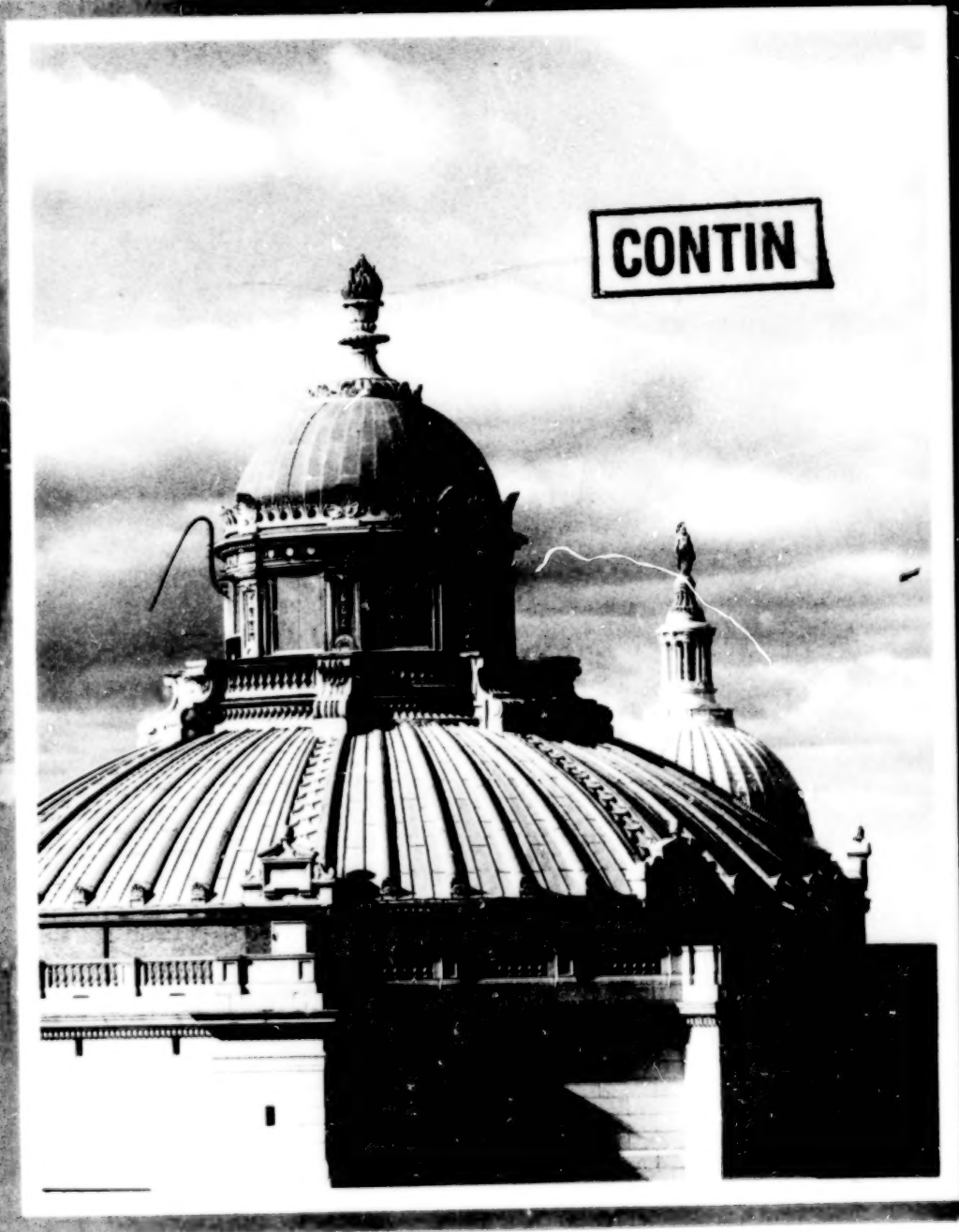
Summary Issue/102d Congress/November 1992

Major Legislation of the Congress



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Major Legislation of the Congress

Summary Issue/November 1992

The *Major Legislation of the Congress (MLC)* includes brief summaries of legislative issues currently before Congress. These summaries, written by Congressional Research Service personnel, are for use by Members of Congress, committees, and their staff. Organized into broad subject areas, each summary contains a brief issue analysis and a description of the major legislation related to that issue.

For ease of use, the summaries are cross-referenced in a Title Index and a Legislative Index at the back of the MLC. Many of the summaries refer to corresponding CRS Issue Briefs, which offer more detailed analysis of the issue.

This edition of the MLC covers the period from January 1991 to November 1992 and summarizes the major legislation introduced and acted on by the 102d Congress.

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Major Legislation of the 102d Congress

AGRICULTURE AND FOOD

MLC-001

CHILD NUTRITION

...many measures acted upon...

Action was taken on 11 authorizing bills and two appropriations bills concerning child nutrition during the 102d Congress. Of these bills, Congress approved six, *all* of which were signed into law. Child nutrition covers school lunch, school breakfast, child and adult care food, summer food service, nutrition education and training and studies, state administrative expenses, commodity distribution, and special milk programs, and the special and commodity supplemental food programs for women, infants and children (WIC and CSFP). For FY1993, the House and Senate approved agriculture appropriations (P.L. 102-341) providing a total of $9.8 billion for child nutrition programs. This represented full service funding for all mandatory child nutrition programs and an increase of $260 million above FY1992 funding for the discretionary WIC program, up to $3 million of which may be used for the WIC farmers' market coupon program.

Among the nutrition program issues raised in several pieces of authorizing legislation were (1) expansion and extension of authority for a WIC farmers' market coupon demonstration project; (2) changes in State competitive bidding processes for WIC infant formula; (3) expansion of snack reimbursements for children in afterschool care at schools participating in lunch programs; (4) elimination of Federal requirements about the types (i.e., whole and low-fat) of milk that must be offered as part of school lunches; (5) expansion of eligibility and funding for homeless children's feeding projects; (6) changes in eligibility among for- profit child care facilities for participation in the child care food program; (7) proposed extension of projects demonstrating alternatives to commodity assistance for school lunch programs (so-called cash, and commodity-letter-of-credit, or CLOC projects); and proposals for a universal school lunch program.

Child nutrition programs also became enmeshed in proposed changes to various agriculture laws during the 102d Congress. For example, unsuccessful attempts to pass legislation to shore up sagging dairy prices drew criticism from opponents objecting to the effect that higher dairy prices would have on nutrition programs (especially WIC). Dairy proponents countered with proposals that would have mitigated the cost effects of their proposals by increasing nutrition program funding or by placing restrictions on milk prices charged to the WIC program. More successful was an attempt to change Federal meat inspection rules to eliminate provisions effectively precluding the sale of fresh, meat-topped pizza to schools participating in the national school lunch program (90% of the Nation's schools). A provision was included in the House- and Senate- passed Food, Agriculture, Conservation and Trade Act Amendments of 1991 (P.L. 102-237) that, in effect, allows meat-topped pizza to be sold without federal inspection when the meat used has been prepared, inspected, and approved in a cured or cooked form, as ready-to-eat. (For further information, see CRS Issue Brief 90097, The WIC Program: Funding and Issues, by Jean Yavis Jones, and CRS Reports for Congress 91-110, Child Nutrition: Expiring Provisions and Prospective Issues in the 102d Congress, 91-227, Federal Regulation of Food Sold in Competition with the School Lunch Program, 92-163, The President's FY1993 Budget and Child Nutrition, and 91-681, Child Nutrition: Program Information, Funding, and Participation, FY1980-1990.)

LEGISLATION

P.L. 102-142, H.R. 2698

FY1992 Agriculture, Rural Development, and Related Agency Appropriations. Provides appropriations for child nutrition, WIC, and special milk programs. (H.Rept. 102-119, S.Rept. 102-116, and H.Rept. 102- 239).

P.L. 102-237, H.R. 3029

Food Agriculture, Conservation and Trade Act Amendments of 1991. Senate version included child nutrition provisions that were dropped during House and Senate staff conference over differences. Reported to House from Committee on Agriculture, with amendment (H.Rept. 102-175); called up under suspension and considered and passed in the House on July 30 and 31, 1991. Referred to Senate Commit-

tee on Agriculture, Nutrition, and Forestry on Aug. 2, 1991; reported with amendments (no written report) Nov. 21, 1991; called up under unanimous consent, considered and passed by Senate Nov. 22, 1991. House agreed to Senate amendment with an amendment (pursuant to passage of H.Res. 305), and Senate agreed to House amendments on Nov. 26, 1991. Signed into law Dec. 13, 1991.

P.L. 102-314, H.R. 3711
WIC Supplemental Benefits Act of 1991. Reauthorizes WIC farmers' market coupon demonstration project through FY1994. Introduced Nov. 5, 1991 and referred to the House Committee on Education and Labor. Reported, with amendment on May 20, 1992. Passed House June 22, 1992; passed Senate on June 23, 1992. Signed into law on July 2, 1992.

P.L. 102-341, H.R. 5487
Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations for FY1993. Provides appropriations for child nutrition programs. Introduced June 25, 1992; referred to Committee on Appropriations. Reported June 25, 1992 (H.Rept. 102-617, S.Rept. 102- 334). Passed House on June 30, 1992; passed Senate on July 28, 1992. House and Senate agreed to conference report Aug. 11, 1992. Signed into law Aug. 14, 1992.

P.L. 102-342, S. 2759
Homeless Children Nutrition Improvement Act of 1990. Revises and extends homeless food programs for preschool children; extends CASH/CLOC pilots through FY1994; reauthorizes Advisory Council on Commodity Donations through FY1996; and makes migrancy and homelessness nutritional risk conditions for WIC. Introduced and passed by the Senate on May 20, 1992 (without Committee report). Amended and reported by House Education and Labor Committee on July 1, 1992 (H.Rept. 102-645). House-reported bill passed the House on July 28, 1992; Senate agreed to House amendment July 30, 1992. Signed into law Aug. 14, 1992.

P.L. 102-512, S. 2875
Children's Nutritional Assistance Act of 1992. Introduced June 18, 1992; referred to Senate Committee on Agriculture, Nutrition and Forestry. Discharged to Senate without action by Committee and amended and passed by Senate Oct. 5, 1992. Passed House Oct. 6, 1992. Signed into law Oct. 24, 1992.

H.R. 1202 (Panetta)
Mickey Leland Childhood Hunger Relief Act. Amends Food Stamp Act to change excess shelter deductions, benefit levels, and income and financial resource determinations for food stamps. Introduced Feb. 28, 1991; referred to Committee on Agriculture. Reported, amended, Nov. 27, 1991 (H.Rept. 102-396). See S. 757 for action on similar bill reported by Senate Agriculture, which included child nutrition provisions.

H.R. 2837 (Stenholm)
Milk Inventory Management Act. Includes provisions for additional funding for child nutrition programs to compensate for potentially higher dairy prices associated with changes in dairy programs. Introduced July 9, 1991; referred to Committee on Agriculture. Reported with amendments, July 29, 1991 (H.Rept 102-173, Part I), and sequentially referred to Committees on Education and Labor and Ways and Means. Reported by Education and Labor Committee on Sept. 24, 1991 (H.Rept. 102-173, Part II) and by House Ways and Means on Oct. 17, 1991 (H.Rept. 102-13, Part III).

S. 224 (McConnell)
Amends the National School Lunch Act to modify criteria for determining eligibility for participation in child care food program by proprietary child care facilities. Introduced Jan. 16, 1991; referred to Committee on Labor and Human Resources, discharged and rereferred to Committee on Agriculture, Nutrition, and Forestry on Jan. 30, 1991.

S. 657 (Leahy)
WIC Infant Feeding Initiative Act of 1991. Amends Child Nutrition Act of 1966 to revise infant formula procurement procedures under the WIC program. Introduced Mar. 13, 1991 and referred to Committee on Agriculture, Nutrition, and Forestry. Joint hearings by Judiciary and Agriculture Committees held Mar. 14, 1991. (Identical bill in the House, H.R. 1441 (Wyden) introduced Apr. 15, 1991 and referred to Committee on Education and Labor.

S. 757 (Leahy)
Mickey Leland Childhood Hunger Relief Act. Includes provisions affecting child nutrition programs. Introduced Mar. 21, 1991; referred to Committee on Agriculture, Nutrition, and Forestry. Reported amended Nov. 26, 1991 (S.Rept. 102-252).

S. 1742 (Leahy)
Farmers' Market Nutrition Act of 1991. Revises and extends authority for operation of a farmers' market coupon project for the issuance of supplemental foods through the use of WIC coupons to be redeemed at farmers' markets. Introduced Sept. 24, 1991 and called up by committee discharge and passed by the Senate on Sept. 27, 1991. Referred jointly to the House Committees on Agriculture and Education and Labor on Oct. 1, 1991.

S. 2760 (Leahy)
Child Nutrition Improvements Act of 1992. Provides for a breastfeeding promotion program; extends through FY1994 a pilot project for eligibility of private for-profit child care centers for child and adult care food program participation; clarifies eligibility criteria for private for-profit child care centers participating in the child and adult care food program. Introduced and passed by the Senate on May 20, 1992; referred to House Committee on Education and Labor on May 21, 1992. (See also S. 2759.)

S. 2761 (Leahy)
Revises and extends WIC farmers' market coupon project through FY1994. Introduced and passed by Senate on May 20, 1992; message on Senate action sent to the House on May 21, 1992.

Jean Yavis Jones

MLC-002

U.S. AGRICULTURAL ASSISTANCE TO THE FORMER SOVIET UNION: POLICY ISSUES

...through mid-October 1992, $5.8 billion committed for FSU...

The disintegration of the Soviet Union and efforts by the newly independent states to cope with a severe economic collapse as they begin to introduce market reforms and democratic processes pose significant foreign policy challenges for the United States. One of these is how the United States might best respond to continuing food shortfalls, particularly in the large cities and regions at the end of the collapsed food distribution system, and help these new states create market mechanisms in their agricultural and food sectors to improve overall food availability. Large food price increases and mounting economic uncertainty further raise the specter of social and political tension, despite an expected average grain harvest in 1992.

Responding to requests to help meet food and feed shortages, the United States since December 1990 has offered to the 15 former Soviet republics $6.6 billion in agricultural export credit guarantees, food aid and transportation assistance, and long-term credits. Through mid-October 1992, the U.S. Department of Agriculture (USDA) had allocated or committed $5.8 billion for the former Soviet Union (FSU) and the three Baltic states -- almost $5.3 billion (91%) in guarantees, and $546 million (9%) under various food aid initiatives. USDA credit guarantees back privately financed purchases by Russia and Ukraine of U.S. agricultural commodities and food products. Should either country default on repayments, USDA is obligated to pay any missed loan payments to banks. Food aid has included: (1) donations distributed through private voluntary organizations to economically vulnerable groups in the population and to governments for resale, and (2) long-term, low-interest loans to enable some governments to purchase needed commodities. U.S. technical assistance, volunteer exchange, and training initiatives to address food sector problems are also underway.

The Administration's broad aid package for the FSU (announced Apr. 1, 1992) sought statutory clarification of the way USDA applies the guarantee program's creditworthiness standard to the new states (for years, a key U.S. agricultural export market) and requested additional flexibility in using USDA food aid program resources in this region. Both the House and Senate struck the provision to liberalize the creditworthiness criterion during floor consideration for budgetary reasons. The Freedom Support Act (P.L. 102-511) added other agricultural export program provisions with respect to the FSU beyond those the Administration proposed.

This Act amends current law to allow USDA to use its direct export credit and credit guarantee programs to facilitate export sales of U.S. agricultural commodities to FSU countries carrying out economic reforms in their agricultural sectors without regard to long-term U.S. market development objectives. It also sets targets for USDA to include more processed and high- value agricultural products in export sales to the FSU under the export credit guarantee and major export subsidy programs, provided certain conditions are met.

With respect to food aid programs for the FSU, the Act: (1) waives, for 1993, the statutory limit on the tonnage in donated commodities that can be shipped under the Food for Progress (FFP) food aid program; (2) allows some FFP donations to be sold on credit terms, (3) allows PVOs and cooperatives to sell FFP-donated commodities and use the proceeds for their humanitarian and development programs, and (4) encourages the President to use available funds to cover the costs of administering U.S. food aid programs.

The Freedom Support Act also authorizes the use of foreign aid funds to meet urgent food needs and to improve food distribution and production through technical, project, and exchange assistance. Funds appropriated in the FY1993 foreign operations appropriations act (P.L. 102-391) are expected to support various agricultural/food technical assistance and related activities already started by the Agency for International Development (AID) and USDA. One other provision expands an existing agricultural fellowship program to include participants from the FSU.

LEGISLATION

P.L. 102-228, H.R. 3807

Conventional Forces in Europe Treaty Implementation Act of 1991. Title III gives the President discretionary authority to transfer not more than $100 million in FY1992 Department of Defense funds for airlifting food, medical supplies, and other humanitarian assistance, by military or commercial means, to the Soviet republics to address emergency conditions that may arise. Signed into law Dec. 12, 1991.

P.L. 102-229, H.J.Res. 157

Dire Emergency Supplemental Appropriations, 1992. Section 109 permits the Secretary of Defense to transfer not more than $100 million in FY1992 funds appropriated to the Department of Defense to transport humanitarian assistance (as authorized and under the terms set out in P.L. 102-228) to the Soviet Union, its republics, or localities. Signed into law Dec. 12, 1991.

P.L. 102-237, H.R. 3029

Food, Agriculture, Conservation, and Trade Act Amendments of 1991. Section 338 (1) authorizes $10 million for

sharing U.S. agricultural expertise with emerging democracies and funding technical assistance projects, and (2) establishes an agricultural information and resources exchange program between USDA, U.S. agribusinesses, and Soviet agricultural institutions to contribute to establishing a free-market food production and distribution system in the Soviet Union and enhance agricultural trade with the United States. Signed into law Dec. 13, 1991.

P.L. 102-266, H.J.Res. 456

FY1992 Further Continuing Appropriations. Section 121 (Assistance to Former Soviet Union) makes available $50 million in FY1992 "Economic Support" funds to provide agricultural commodities, with special emphasis on meeting needs of children and pre- and post-natal women. Signed into law Apr. 1, 1992.

P.L. 102-391, H.R. 5368

Foreign Operations, Export Financing, and Related Programs Appropriations, FY1993. Under "Assistance for the New Independent States of the Former Soviet Union," appropriates $417 million to remain available until expended, of which some is available for agricultural development activities. Of the total, up to $12 million may be made available for American Agribusiness Centers in the new independent states of the FSU. Introduced June 10, 1992; House Committee on Appropriations adopted substitute amendment during markup on June 18 and filed H.Rept. 102-585. Passed House, amended, by yea-nay vote of 297-124 on June 25. Senate Committee on Appropriations reported measure, with amendment (S.Rept. 102-419) on Sept. 23. Passed Senate, amended, by yea-nay vote of 87-12 on Oct. 1. Conference report filed Oct. 4 (H.Rept. 102-1011). House and Senate adopted report Oct. 5. Signed into law Oct. 6, 1992.

P.L. 102-511, S. 2532

Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 (FREEDOM Support Act). Section 201 amends the Foreign Assistance Act to authorize the President to use appropriated funds for activities, among others, in the independent states of the FSU: (1) to meet urgent humanitarian needs, including food; and (2) to improve food distribution and production. Section 301 authorizes funding to establish agribusiness centers in the FSU involving U.S. agribusinesses and others to enhance the ability of farmers and agricultural/food enterprises to meet their needs, to assist in helping the agricultural sector make the transition to a free market economy, and to demonstrate U.S. agricultural equipment and technology. Title VII amends the 1985 Food for Progress (FFP) Act: (1) to make these new states eligible recipients; (2) for FY1993, to remove the cap on the tonnage of surplus commodity stocks furnished to these independent states; Title VII amends the Agricultural Trade Act of 1978: (1) make available USDA direct export credits to "emerging democracies," to require that a portion of USDA direct credits and guarantees be made available for eligible projects (facilities, services, and U.S.-produced goods) that improve the handling, marketing, processing, storage, or distribution of imported agricultural commodities and food products primarily imported from the United States; (2) prohibit the use of USDA direct credits to facilitate agricultural export sales to any country that USDA determines cannot adequately service that debt; (3) sets targets for USDA to include more processed and high-value agricultural products in export sales to the FSU facilitated under the export credit guarantee and major export subsidy programs. Introduced Apr. 7, 1992, at the request of the Administration; referred to Committee on Foreign Relations. Full committee marked up bill, amended, on May 13, and reported it favorably on a vote of 15-2. Report (S.Rept. 102-292) filed June 2. Passed July 2, as amended, on vote of 76-20. House considered companion legislation (H.R. 4547, H.Rept. 102-569) on Aug. 6. The House considered the text of H.R. 5750 as an amendment in the nature of a substitute for H.R. 4547. Passed House, amended, by yea-nay vote of 255-164. Conference report (H.Rept. 102-964) filed Oct. 1. Signed into law Oct. 24, 1992.

Remy Jurenas

BUDGET AND GOVERNMENT SPENDING

MLC-003

ANNUAL APPROPRIATIONS MEASURES

...FY1992-1993 appropriations within spending caps...

Roughly half of the approximately $1.5 trillion in new budget authority that becomes available each year derives from annual appropriations acts. These measures -- including regular appropriations acts, continuing appropriations acts, and supplemental appropriations and rescission acts -- are under the jurisdiction of the House and Senate Appropriations Committees.

During the past decade, Congress in some years has consolidated most or all of the 13 regular appropriations acts into a single, full-year continuing appropriations act. This did not occur in the 102d Congress. In the first session, 12 of the 13 regular appropriations acts for FY1992 were enacted separately (one act was funded for the full year by continuing appropriations acts); in the second session, all 13 of the regular appropriations acts for FY1993 were enacted separately. Action on the 25 regular appropriations acts considered during the 102d Congress was fairly timely by historical standards: all but 3 of them were enacted by the end of October (the fiscal year starts on the first day of that month).

For FY1992 and FY1993, none of the appropriations measures enacted breached the discretionary spending limits established for defense, international,

and domestic programs under the Budget Enforcement Act of 1990 and, therefore, no sequesters occurred. A sequester of $2.4 million in FY1991 budget authority for domestic programs occurred on Apr. 25, 1991, due to the enactment of a supplemental appropriations measure (P.L. 102-27) containing some non-emergency funds. The 102d Congress enacted more than $50 billion in emergency appropriations, mostly for Operation Desert Storm/Desert Shield, covering FY1991-1993.

President Bush vetoed three annual appropriation acts (and his vetoes were not overridden): the District of Columbia Appropriations Acts for FY1992 and FY1993 and the Labor, HHS, Education Appropriations Act for FY1992. In each instance, Congress and the President agreed to revised measures.

Actions in 1991. The House and Senate completed action on 12 of the 13 regular appropriations acts for FY1992 by Nov. 26, 1991. The remaining act, the Foreign Operations Appropriations Act, was funded for the entire fiscal year by a series of continuing appropriations acts. Three continuing appropriations acts for FY1992 were enacted in 1991 (P.L. 102- 109, P.L. 102-145, and P.L. 102-163) and one was enacted in the following session.

During the first session, Congress enacted four emergency supplemental appropriations measures affecting FY1991-1992 (P.L. 102-27, P.L. 102-28, P.L. 102-55, and P.L. 102-229).

Actions in 1992. The House and Senate completed action on the 13 regular appropriations acts for FY1993 by Oct. 5, 1992, shortly before the close of the second session. Additionally, one short-term continuing appropriations measure for FY1993 (P.L. 102-376) was enacted. By October 6, President Bush had signed all of the regular appropriations acts into law.

During the second session, Congress enacted four measures affecting FY1992: a continuing resolution (P.L. 102-266), a rescission bill (P.L. 102-298), and two emergency supplemental appropriations bills (P.L. 102-302 and 102-368).

(For additional information, see CRS Issue Brief 92105, *Annual Appropriations Measures Considered in 1992.*)

LEGISLATION

P.L. 102-142, H.R. 2698
Agriculture, Rural Development Appropriations Act. Signed into law Oct. 28, 1991.

P.L. 102-140, H.R. 2608
Commerce, Justice, State, Judiciary Appropriations Act. Signed into law Oct. 28, 1991.

P.L. 102-172, H.R. 2521
Defense Department Appropriations Act. Signed into law Nov. 26, 1991.

P.L. 102-111, H.R. 3291
District of Columbia Appropriations Act. Signed into law Oct. 1, 1991. An earlier version of the act (H.R. 2699) was vetoed by the President Aug. 17, 1991.

P.L. 102-104, H.R. 2427
Energy and Water Development Appropriations Act. Signed into law Aug. 17, 1991.

H.R. 2621 (Obey)
Foreign Operations Appropriations Act. Not enacted; foreign assistance programs were funded for the entire fiscal year by a series of continuing appropriations acts.

P.L. 102-154, H.R. 2686
Department of Interior Appropriations Act. Signed into law Nov. 13, 1991.

P.L. 102-170, H.R. 3839
Labor, Health and Human Services, Education Appropriations Act. Signed into law Nov. 26, 1991. An earlier version of the act (H.R. 2707) was vetoed by the President Nov. 19, 1991.

P.L. 102-90, H.R. 2506
Legislative Branch Appropriations Act. Signed into law Aug. 14, 1991.

P.L. 102-136, H.R. 2426
Military Construction Appropriations Act. Signed into law Oct. 25, 1991.

P.L. 102-143, H.R. 2942
Department of Transportation Appropriations Act. Signed into law Oct. 28, 1991.

P.L. 102-141, H.R. 2622
Treasury, Postal Service Appropriations Act. Signed into law Oct. 28, 1991.

P.L. 102-139, H.R. 2519
Veterans' Affairs, HUD Appropriations Act. Signed into law Oct. 28, 1991.

P.L. 102-341, H.R. 5487
Agriculture, Rural Development Appropriations Act. Signed into law Aug. 14, 1992.

P.L. 102-395, H.R. 5678
Commerce, Justice, State, Judiciary Appropriations Act. Signed into law Oct. 6, 1992.

P.L. 102-396, H.R. 5504
Defense Department Appropriations Act. Signed into law Oct. 6, 1992.

P.L. 102-382, H.R. 6056
District of Columbia Appropriations Act. Signed into law Oct. 5, 1992. An earlier version of the act (H.R. 5517) was vetoed by the President Sept. 30, 1992.

P.L. 102-377, H.R. 5373
Energy and Water Development Appropriations Act. Signed into law Oct. 2, 1992.

P.L. 102-391, H.R. 5368
Foreign Operations Appropriations Act. Signed into law Oct. 6, 1992.

P.L. 102-381, H.R. 5503
Department of Interior Appropriations Act. Signed into law Oct. 5, 1992.

P.L. 102-394, H.R. 5677
Labor, Health and Human Services, Education Appropriations Act. Signed into law Oct. 6, 1992.

P.L. 102-392, H.R. 5427
Legislative Branch Appropriations Act. Signed into law Oct. 6, 1992.

P.L. 102-380, H.R. 5428
Military Construction Appropriations Act. Signed into law Oct. 5, 1992.

P.L. 102-388, H.R. 5518
Department of Transportation Appropriations Act. Signed into law Oct. 6, 1992.

P.L. 102-393, H.R. 5488
Treasury, Postal Service Appropriations Act. Signed into law Oct. 6, 1992.

P.L. 102-389, H.R. 5679
Veterans' Affairs, HUD Appropriations Act. Signed into law Oct. 6, 1992.

Robert Keith

MLC-004

BUDGET ENFORCEMENT

...small sequester for FY1991, but none for FY1992-1993...

In late 1990, President Bush and Congress agreed on a budget accord to reduce the deficit during FY1991-1995 by about $500 billion from baseline levels. Much of the accord was implemented in 1990 by the enactment of the Omnibus Budget Reconciliation Act (OBRA) of 1990, which included multiyear revenue increases and reductions in entitlement spending, and the enactment of the regular appropriations acts for FY1991. Special procedures known as the Budget Enforcement Act (BEA) were included in OBRA of 1990 to ensure that the full savings are achieved and maintained over FY1991-1995.

The BEA revised the sequestration process under the Gramm-Rudman- Hollings (GRH) Act, changing the focus from fixed deficit targets to limits on discretionary appropriations and the requirement that changes in entitlement and revenue laws not add to the deficit. (Sequestration refers to automatic, across-the-board spending cuts in non-exempt programs triggered -- primarily at the end of the session -- when spending and deficit control goals are not met.) Although deficit targets are included in the revised GRH Act, they are adjusted periodically and are not expected to affect enforcement procedures through FY1993.

Major procedures established by the BEA involve discretionary spending limits and pay-as-you-go (PAYGO) requirements. For FY1991-1993, the discretionary spending limits are set for three categories -- defense, international, and domestic -- and are adjusted periodically Under PAYGO, new laws affecting revenues and entitlements and other mandatory spending must not result in a net increase in the deficit. (Revenue reductions or mandatory spending increases are allowed so long as they are offset.) Violations, as determined by estimates made by the Office of Management and Budget (usually at the end of the session), automatically trigger a sequester in the applicable programs. If Congress enacts legislation consistent with a budget resolution for a fiscal year, no sequester should be necessary for that fiscal year. Under a "safety valve" feature of the BEA, items declared to be emergency spending by the President and Congress do not trigger a sequester.

During the 102d Congress, the President and Congress essentially adhered to the strict requirements of the BEA. A small sequester was implemented for FY1991, but no sequesters were required for FY1992 or FY1993. During this period, more than $50 billion in emergency appropriations were enacted for FY1991-1993 under the safety valve feature, mostly for Operation Desert Storm.

Actions in 1991. The President's FY1992 budget, submitted to Congress on Feb. 4, 1991, and the congressional budget resolution (H.Con.Res. 121), adopted on May 22, 1991, both adhered to the overall deficit-reduction goals for FY1991- 1995 and met the PAYGO requirements and the discretionary spending limits in each fiscal year during this period. The first session of the 102d Congress ended on Jan. 3, 1992, so OMB did not issue its end-of-session sequestration report until January 13. The OMB report indicated that legislation enacted during 1991 implementing budget policies for FY1992 did not require any sequesters for that fiscal year.

During 1991, a small sequester occurred for FY1991. On April 25, the President issued a sequestration order to reduce domestic discretionary spending for FY1991 by 0.0013%. The reduction was made necessary by the enactment of a supplemental appropriations bill that caused the budget authority cap in the domestic category to be exceeded by $2.4 million.

Sequestration and other enforcement procedures may be suspended in the event of a declaration of war or upon enactment of a special joint resolution triggered by the issuance of a report by the Congressional Budget Office (CBO) indicating low economic growth. Despite the occurrence of hostilities in the Persian Gulf and the issuance of three low-growth reports by CBO in 1991, the enforcement procedures were not suspended.

Actions in 1992. The President's FY1993 budget, submitted to Congress on Jan. 29, 1992, and the congressional budget resolution (H.Con.Res. 287), adopted on May 21, 1992, both complied with the requirements of the BEA. The second session of the 102d Congress ended on October 9, and OMB issued its end- of-session sequestration report on October 23. The OMB report indicated that legislation enacted during 1992 implementing budget policies for FY1993 did not require any sequesters for that fiscal year.

In fashioning budget plans for FY1993, the House and Senate considered legislation (H.R. 3732 and S. 2399, respectively) that would have provided for greater spending for domestic programs and less spending for defense programs than allowed by the BEA by removing the "firewalls" between the spending categories. Neither chamber passed "firewalls" legislation.

(For more detailed information on this topic, see CRS Issue Brief 91013, *Budget Enforcement in 1991*, and CRS Issue Brief 92009, *Budget Enforcement in 1992*.)

LEGISLATION

H.Con.Res. 121 (Panetta)/S.Con.Res. 29 (Sasser)
Budget resolution for FY1992. H.Con.Res. 121 reported by House Budget Committee Apr. 12, 1991 (H.Rept. 102-32). Passed House (261-163) April 17. S.Con.Res. 29 reported by Senate Budget Committee April 18 (S.Rept. 102-40). H.Con.Res. 121 passed Senate (voice vote), amended, in lieu of S.Con.Res. 29, April 25. Conference report (H.Rept. 102-69) agreed to in House (239-181) and Senate (57-41) May 22, 1991.

H.Con.Res. 287 (Panetta)/S.Con.Res. 106 (Sasser)
Budget resolution for FY1993. H.Con.Res. 287 reported by House Budget Committee Mar. 2, 1992 (H.Rept. 102-450). Sections 1, 2, and 4 passed House (215-201) and Section 3 passed House (224-191) Mar. 5, 1992. S.Con.Res. 106 reported by Senate Budget Committee (no written report) April 3. H.Con.Res. 287 passed Senate (voice vote), amended, in lieu of S.Con.Res. 106, April 10. Conference report (H.Rept. 102-529) agreed to in House (209-207) and Senate (52- 41) May 21, 1992.

H.R. 3732 (Conyers)
Budget Process Reform Act of 1992. Revises discretionary spending limits for FY1993 by merging the three categories (defense, international, and domestic) into one. Reported by Committee on Government Operations (H.Rept. 102-446, Part I), amended, Feb. 27, 1992. Reported by Committee on Rules (H.Rept. 102-446, Part II), amended, March 4. Failed of passage (187-238) in House Mar. 31, 1992.

S. 2399 (Sasser)
Appropriations Category Reform Act of 1992. Revises discretionary spending limits for FY1993 by retaining the international category but combining the defense and domestic categories into a national category. Senate failed to invoke cloture (50-48) on motion to proceed to consideration Mar. 26, 1992.

Robert Keith

MLC-005

DEFENSE BUDGET CUTS AND THE ECONOMY

...significant cuts expected...

Because of the extraordinary political changes that have swept across Eastern Europe and the former Soviet Union, U.S. budget outlays for national defense will be cut significantly over the next several years. Given this outlook, Members of Congress are very interested in how cuts might affect the U.S. economy generally and their congressional districts particularly.

Budget outlays for national defense for FY1992 are estimated to be about $307 billion. This spending level comprises about 5.2% of the total annual production of the U.S. economy. It not only is a small share of current U.S. output, but it also is markedly below the GDP shares recorded in the peak years of the military buildups of World War II (39.2% in 1944), Korea (14.4% in 1953), and Vietnam (9.6% in 1968).

The implications of large-scale defense spending cuts for the U.S. economy in general could vary widely depending on a number of factors or circumstances: the strength of the general economy during the period of cutbacks; the ability of the economy to productively employ the military and civilian personnel who could lose their jobs as a result of reductions in defense expenditures; the distribution of cuts among the major spending categories of the defense budget and the pace at which the cuts are made; and the extent to which savings from defense cutbacks are used to reduce the Federal budget deficit or are offset by increases in non-defense spending.

Aside from the effects on the general economy (which might be moderate over the long run), some industries, workers, and communities could be severely affected by substantial spending cuts. Thirty-one industries produce 15% or more of their output for defense-related purposes. The economies of 14 States

plus the District of Columbia benefit considerably from Pentagon expenditures when measured on a per capita basis. Workers employed in these industries and States could be among those most injured by cuts in the defense budget, particularly if their skills are not transferable or in demand by other employers and if they live in slow- growing areas which afford few alternative job opportunities. Individual industry effects will likely depend upon the nature, size, and timing of spending cuts; the extent to which an industry's health is associated with defense production; and the ability of individual firms within an industry to profitably convert or diversify into nondefense work. Economic effects at the State level will likely depend upon local current economic conditions and how well communities can profitably utilize for nondefense purposes the personnel, land, and facilities released by reduced defense spending.

(For more information on this subject, see CRS Issue Brief 90012.)

LEGISLATION

P.L. 102-380, H.R. 5428

Makes appropriations for military construction for the Department of Defense for the fiscal year ending Sept. 30, 1993, and for other purposes. Introduced and referred to Committee on Appropriations, Jan. 29, 1992. Full committee markup held and ordered to be reported, June 18, 1992 (H.Rept. 102-580). Passed House, amended, June 23, 1992. Referred to Senate Committee on Appropriations, June 25. Reported, amended, July 31 (S.Rept. 102-355). Passed Senate, amended, Aug. 5, 1992. Conference report (H.Rept. 102-888) filed Sept. 22, 1992. Signed into law Oct. 5, 1992.

P.L. 102-396, H.R. 5504

Makes appropriations for the Department of Defense for the fiscal year ending Sept. 30, 1993, and for other purposes. Introduced and referred to Committee on Appropriations, Jan. 29, 1992. Full committee markup held and ordered to be reported, June 29, 1992 (H.Rept. 102-627). Passed House, amended, July 2, 1992. Referred to Senate Committee on Appropriations, July 21, 1992. Reported (S.Rept. 102-408), amended, Sept. 17, 1992. Passed Senate, amended, September 23. Conference report (H.Rept. 102-1015) filed Oct. 5, 1992. Signed into law Oct. 6, 1992.

P.L. 102-484, H.R. 5006

Authorizes appropriations for military functions of the Department of Defense and for other purposes and prescribes military personnel levels for FY1993. H.R. 5006 introduced Apr. 29, 1992; referred to Committee on Armed Services. Reported May 19, 1992 (H.Rept. 102-527). Debated in the House, June 3-5, 1992. Motion to recommit with instructions passed in the House by voice vote, June 5, 1992. Passed House, amended, June 5, 1992 Referred to Senate Committee on Armed Services, June 12, 1992. Passed Senate, amended, Sept. 19, 1992. Conference report (H.Rept. 102-966) filed October 1. Signed into law Oct. 24, 1992.

Edward Knight

MLC-006

THE FEDERAL BUDGET FOR FISCAL YEAR 1992

...figures have changed...

The actual budget totals for FY1992 were released by the Treasury in late November 1992. The final totals were: receipts of $1,091.7 billion; outlays of $1,381.9 billion; and a deficit of $290.2 billion. The deficit sets a record, in dollars but not as a percentage of GDP, but is much lower than was expected in the budget revisions from January 1992, almost $400 billion. Receipts were higher than expected and outlays lower than expected. Part of the reason was the delay in funding deposit insurance which pushes the outlays into future years.

The mid-year (1992) budget reports from OMB and CBO, the last before the end of the fiscal year, contained changed budget estimates for FY1992. Mostly because of changes in funding for the savings and loan (S&L) cleanup, outlays and the deficit are expected to be smaller (by $50 billion to $70 billion) than had been expected in previously revised OMB and CBO estimates from earlier in the year. The delay in funding the S&L cleanup will raise future year spending, and total costs for the cleanup. These last estimates for FY1992 put revenues between $1,073.6 billion (OMB) and $1,088 billion (CBO), outlays between $1,407.1 billion (OMB) and $1,402 billion (CBO), and the deficit between $333.5 billion (OMB) and $314 billion (CBO). In all cases, revenues and outlays are smaller than originally proposed by the President in January 1992, while the deficit is larger.

The previous official estimates from January 1992 (OMB) and February 1992 (CBO) had shown a dramatic increase in outlays and the deficit and a decrease in revenues from the original proposals and estimates a year earlier. The numbers had moved in the same direction from the mid-year official estimates in the summer of 1991. The January/February 1992 estimates were between $352 billion (CBO) and $399.7 billion (OMB).

Both the broad and narrow policy framework for the FY1992 budget were determined by the enactment of the Omnibus Budget Reconciliation Act of 1990 (OBRA, P.L. 101-508) in early November, 1990. By establishing overall, somewhat adjustable deficit targets, spending category targets, and pay-as-you- go requirements for mandatory spending and taxes, little space was left for new spending or revenue proposals in the President's or the congressional budget.

President Bush presented his FY1992 budget to Congress on Feb. 4, 1991. The budget, closely following the requirements of OBRA, proposed $1,445.9 bil-

lion in outlays, $1,165.0 billion in receipts, with a deficit of $280.9 billion. These numbers reflected very little proposed change in policy (although there was some proposed change in the existing policy mix) from the policies established in the previous fall. The numbers also reflected the Administration's economic outlook and budget estimating methods.

Congress adopted its budget resolution (H.Con.Res. 121) on May 22, 1991, following a relatively short conference. As with the President's budget, the budget resolution essentially followed the dictates of the budget agreement, with some variations in composition of spending. The House was fairly prompt in adopting the 13 regular appropriation bills, while the Senate was slower, and some appropriation conferences took the rest of the session.

(For more information on this subject, see CRS Issue Brief 91046.)

LEGISLATION

P.L. 102-109, H.J.Res. 332
Continuing appropriations for FY1992 that funded Government operations through Oct. 29, 1991. Signed into law Sept. 30, 1991.

P.L. 102-145, H.J.Res. 360
Continuing appropriations for FY1992 that funded Government operations through Nov. 14, 1991. Also used to fund the activities found in the Foreign Assistance appropriation bill through March 1992. Signed into law Oct. 28, 1991.

P.L. 102-163, H.J.Res. 374
Continuing appropriations for FY1992 that funded Government operations until Nov. 26, 1991. Signed into law Nov. 15, 1991.

P.L. 102-298, H.R. 4990
Rescission legislation. Contains provisions to reduce budget authority by $8.2 billion; is estimated to reduce FY1992 outlays by $2.5 billion. Signed into law June 4, 1992.

H.Con.Res. 121 (Panetta)
House-adopted version of the concurrent resolution on the budget for FY1992. Reported by Committee on Budget Apr. 12, 1991 (H.Rept. 102-32). Passed House Apr. 17, 1991. A conference report (H.Rept. 102-69) on the resolution was adopted May 22, 1991.

S.Con.Res. 29 (Sasser)
Senate-adopted version of the concurrent resolution on the budget for FY1992. Reported by Committee on Budget Apr. 18, 1991 (S.Rept. 102- 40). Passed Senate Apr. 25, 1991; its text was substituted for the text of the House- passed budget resolution, H.Con.Res. 121.

Philip D. Winters

MLC-007

THE FEDERAL BUDGET FOR FISCAL YEAR 1993

...work on appropriations bills completed...

President Bush submitted his fiscal year 1993 budget on Jan. 29, 1992. The budget claimed to address both short-term concerns, mostly involving the economy (and relating to the remainder of FY1992); and longer-term issues, such as sustainable economic growth and some of the Nation's social problems. The proposals to reinvigorate economic growth, both in the short- and long-terms, focused on a variety of tax reductions, shrinkage in defense spending, the reduction, elimination, or freezing of selected domestic programs, and some control over mandatory program spending. The impact of the proposals on the economy, and even their effect on the budget itself, were almost immediately challenged as inadequate, ineffective, or unfair. The effects of the proposals on renewed economic growth and whether the proposals would increase or decrease the deficit were also in dispute.

For FY1993, the President proposed receipts of $1,165.4 billion, outlays of $1,515.3 billion, and a deficit of $349.9 billion. Most of the changes in the budget totals from FY1992 to FY1993 were expected from factors other than deliberate policy change, such as lower inflation or interest rates, faster economic growth, or automatic growth in mandatory spending. The proposed budget totals met, according to the Administration, the requirements of the Budget Enforcement Act (BEA).

Mid-summer budget reports from both the Administration and the Congressional Budget Office (CBO) revised the outlook for FY1993. The deficit, outlay, and receipt estimates were all smaller than the earlier estimates. The change in receipts (now $1,162 billion to $1,163 billion) is mostly the result of continuing economic weakness while the change in outlays (now $1,493 billion to $1,504 billion), at least in part, comes from slower than projected spending on deposit insurance (the savings and loan cleanup). The deficit (now $331 billion to $341 billion) is expected to be smaller because spending estimates fell by more than revenue estimates.

Congress began its work on the budget soon after the President's budget presentation. The budget resolution (H.Con.Res. 287) was adopted by late May. Congress did not make any changes to the BEA, leaving intact the spending walls among the three discretionary spending categories. Work on the appropriation bills continued through the summer and into the fall. As the first week of the new fiscal year ended, Congress finished its work on the appropriation bills for the year (having adopted a continuing resolution on appropriations through Oct. 5, 1992) and finished its other work before adjourning *sine die*.

(For more information on this subject, see CRS Issue Brief 92045.)

LEGISLATION

P.L. 102-298, H.R. 4990
Rescinding further budget authority. Rescinds $8.2 billion in budget authority beginning during FY1992. Adopted by Congress May 21, 1992 and signed into law June 4, 1992.

P.L. 102-302, H.R. 5132
Dire Emergency Supplemental for 1992, Disaster Assistance for Cities. Provides $1.1 billion in appropriations for Federal assistance to cities. Adopted by Congress June 18, 1992 and signed into law June 22, 1992.

H.R. 11 (Rostenkowski)
Enterprise Zone Tax Incentives Act of 1991. Provides tax incentives in a limited number of areas called enterprise zones. Reported by House Committee on Ways and Means June 30 (H.Rept. 102-631). Passed House, amended, July 2, 1992. Reported, amended, by Senate Committee on Finance Aug. 3, 1992. Passed Senate, amended, September 29. Conference report (H.Rept. 102-1034) filed October 5. Cleared for the White House October 8. Pocket vetoed, effective Nov. 5, 1992.

H.R. 3732 (Conyers)
Budget Process Reform Act of 1992. Designed to eliminate the barriers between the discretionary spending categories within the Budget Enforcement Act. Introduced Nov. 7, 1991; referred to more than one committee. Reported, amended, by Committee on Government Operations March 27 (H.Rept. 102-446, Part I). Reported, amended, by Committee on Rules (H.Rept. 102-446, Part II). Failed a House vote Mar. 31, 1992.

H.R. 4210 (Gephardt)
Tax Relief of Families Act of 1992. Amends the Internal Revenue Code of 1986 to provide incentives for increased economic growth and to provide tax relief for families. Introduced Feb. 11, 1992; referred to Committee on Ways and Means. Reported Feb. 1, 1992 (H.Rept. 102-43). Passed House, amended, Feb. 27, 1992. In Senate, Committee on Finance incorporated provisions of related measures S. 1872, S. 1364 in reported measure. Reported, amended, March 6. Conference report (H.Rept. 102-461) filed March 10. Cleared for White House March 20. Vetoed by the President March 20. Veto override attempt in the House failed Mar. 25, 1992.

H.Con.Res. 287 (Panetta)
Concurrent resolution on the budget for FY1993. House version of the budget resolution for FY1993. Reported by Committee on the Budget Mar. 2, 1992 (H.Rept. 102-450. Adopted by House March 5. Reported by Conference Committee May 20. Passed both Houses of Congress May 21, 1992.

S. 2250 (Sasser)
Appropriations Category Reform Act of 1992. The Senate version of the Budget Process Reform Act of 1992. Introduced Feb. 25, 1992; referred to more than one committee. Consideration of the legislation by the Senate blocked.

S.Con.Res. 106 (Sasser)
Concurrent resolution on the budget for FY1993. Senate Budget Committee version of the budget resolution for FY1993. Reported by Senate Budget Committee April 3 (no written report). Senate incorporated this measure in H.Con.Res. 287 as an amendment and agreed to H.Con.Res. 287 in lieu of S.Con.Res. 106, Apr. 10, 1992.

Philip D. Winters

BUSINESS, INDUSTRY, AND CONSUMER AFFAIRS

MLC-008

CFTC REAUTHORIZATION AND FUTURES TRADING

...reauthorization bill enacted...

During the last few days of the 102d Congress, a bill (H.R. 707, P.L. 102- 546) reauthorizing the Commodity Futures Trading Commission (CFTC) was passed, breaking a 3-year legislative stalemate over the regulation of new "hybrid" or "derivative" financial products. In question was the regulatory jurisdiction of the CFTC and the Securities and Exchange Commission: which agency ought to regulate financial instruments that have characteristics of both securities and futures contracts? The issue was important to both the securities and futures industries, since regulatory jurisdiction determines whether a new financial product will be traded on a stock or a futures exchange.

The legislation passed by Congress allows the CFTC to exempt swaps and other derivative instruments from regulation under the Commodity Exchange Act. The exemptive authority is intended to foster innovation in financial markets. The swaps market, which has grown very rapidly in recent years, is now virtually unregulated and largely hidden from public view, and some observers believe that it may pose risks to the financial system. The legislation directs the CFTC, the SEC, and the Federal Reserve to study the swaps and derivative markets with an eye to identifying potential market risks.

Another provision of the legislation gives the Federal Reserve the authority to set margin requirements on stock index futures contacts, just as the Federal Reserve has long done in the stock market itself. (Margin, in futures trading, means the amount of cash that must be put down to control a futures contract.) Since the crash of 1987, there has been concern that the

futures exchanges have set margins on these contracts too low, encouraging speculation and perhaps exacerbating stock price volatility.

Other provisions of the legislation deal with the regulation of futures trading. In 1989, 46 traders were indicted following an FBI sting investigation on the two largest futures exchanges. The charges involved prearranged or fictitious trading with the aim of defrauding customers. The new law requires a more accurate audit trail: an independent record of who bought what from whom, and when. Dual trading, the practice by which traders execute customer orders while at the same time trading for their own accounts, will be banned in most commodities. Insider trading will be outlawed and market participants will have to undergo more stringent ethical training. These provisions were relatively uncontroversial; it was the jurisdictional dispute that delayed the renewal of the CFTC's authorization, which expired on Sept. 30, 1989. The authorization is now extended through the end of FY1994.

(For more information on this subject, see CRS Issue Brief 89051.)

LEGISLATION

P.L. 102-546, H.R. 707

Commodity Futures Improvements Act of 1991. Contains provisions to improve the regulation of futures trading, authorize appropriations for the Commodity Futures Trading Commission, and for other purposes. Introduced Jan. 29, 1991; referred to Committee on Agriculture. Reported Mar. 1, 1991 (H.Rept. 102-6). Passed House, amended, Mar. 5, 1991. Referred to Senate Committee on Agriculture, Forestry, and Nutrition Mar. 7, 1991. Passed Senate in lieu of S. 207 with an amendment Apr. 18, 1991. House agreed to Conference Report (H.Rept. 102-978) Oct. 2, 1992. Senate agreed to Conference Report October 8. Signed into law Oct. 28, 1992.

Mark Jickling

MLC-009

PRICE FIXING

...bills to codify per se rule not enacted...

Over the last three quarters of a century, Congress has frequently grappled with the issue of how much control manufacturers can exercise over the retail prices charged for their products. Since the 1911 *Dr. Miles* case in which the Supreme Court equated resale price maintenance (RPM) imposed by a manufacturer upon his dealers with a price-fixing agreement among the dealers, this fundamental antitrust issue has never failed to split the various groups interested in the outcome, be they economists, lawyers, business executives, government officials, or legislators. And, while it has showcased conflicting academic theories, the ongoing debate has substantial real-world implications for American consumers.

Legislation passed by the Senate (S. 429) in May 1991 and by the House (H.R. 1470) in October 1991 would have codified the *per se* (automatic illegality) rule with respect to vertical price restraints (agreements between manufacturers and retailers, dealers, or distributors), and modify evidentiary standards in cases involving termination of dealer contracts. On June 30, 1992, the House disagreed (175-225) to the conference report (H.Rept. 102-605). The chief reason was the issue of whether small businesses -- defined by the Campbell amendment in the House-passed version as firms "so small in the relevant market as to lack market power" --should be exempt from the legislation.

At the most basic level of disagreement, proponents and opponents of the legislation differed as to whether the Court erred in the 1911 *Dr. Miles* case when it said RPM should always be deemed illegal. Adherents of the so-called Chicago school of economic and legal philosophy believe that sometimes agreements by manufacturers and dealers on prices are beneficial to those parties as well as to consumers and, therefore, alleged RPM violations should be subject to rule of reason analysis. On the other hand, those who support codifying the *per se* illegality of RPM maintain that the justification for doing so is that nearly all vertical price fixing agreements are likely to be anticompetitive and result in higher prices.

Others, while in agreement with the bills' sponsors as to the detrimental economic effects of RPM, opposed the legislation either because they did not think the *per se* rule should be codified or they felt the bills' efforts to establish proper evidentiary standards would have encouraged non-meritorious litigation.

(For more information on this subject, see CRS Issue Brief 88103.)

LEGISLATION

H.R. 1470 (Brooks)

Price Fixing Protection Act of 1991. Establishes evidentiary standards for Federal civil antitrust claims based on resale price fixing. Introduced Mar. 19, 1991; referred to Committee on the Judiciary. Reported Oct. 3, 1991 (H.Rept. 102-237). Passed House, amended, Oct. 10, 1991.

S. 429 (Metzenbaum)

Consumer Protection Against Price-Fixing Act of 1991. Amends the Sherman Act regarding retail competition. Introduced Feb. 20, 1991; referred to Committee on the Judiciary. Hearings held Feb. 21, 1991, by the Judiciary

Committee's Antitrust, Monopolies, and Business Rights Subcommittee. Reported Apr. 19, 1991 (S.Rept. 102-42). Passed Senate, amended, May 9, 1991. House struck all after enacting clause and inserted in lieu thereof provisions of H.R. 1470. Passed House, amended, Oct. 10, 1991. Conference report (H.Rept. 102-605) filed in House June 22, 1992. House disagreed to conference report June 30, 1992.

Bruce K. Mulock

CIVIL RIGHTS AND LIBERTIES

MLC-010

ABORTION: LEGISLATIVE CONTROL

...Supreme Court decisions focus of legislative action...

During the 101st Congress, legislative activity relating to abortion took on new significance in the wake of the Supreme Court decision in *Webster v. Reproductive Health Services*. In the 102d Congress two other Supreme Court decisions became the focal point of legislative action.

On May 23, 1991, the Court in *Rust v. Sullivan* upheld, on both statutory and constitutional grounds, Health and Human Services' Title X regulations restricting recipients of Federal family planning funds from counseling women about the option of abortion. A number of measures seeking to invalidate the regulations had already been introduced prior to the Supreme Court's decision. Following the decision, legislative efforts to overturn the regulations proceeded on a number of different fronts.

S. 323, the Family Planning Amendments of 1992, was a measure designed to ensure that pregnant women receiving assistance under Title X are provided with nondirective counseling regarding pregnancy management options. The House agreed to the conference report on the bill (H.Rept. 102-767) on Aug. 6, 1992 by a 251-144 vote, short of the two-thirds majority needed to override an expected veto. The President did veto the bill on October 1; the House failed to override the veto.

Language to block the so-called "gag rule" was also added to H.R. 5677, the FY1993 funding bill for the Department of Labor, Health and Human Services, when it was considered in the Senate. The provision was later dropped by conferees.

Legislative interest also centered on the proposed Freedom of Choice Act. Anticipating the decision in *Planned Parenthood v. Casey*, companion measures H.R. 25 and S. 25 were introduced on the first day of the 102d Congress. The intent of the legislation, as expressed by the sponsors, was to preserve a woman's right to an abortion even in the event that the Supreme Court decision in *Roe v. Wade* is reversed.

Interest in these proposals was heightened following the Court's decision in *Casey*, June 29, 1992. While reaffirming generally the validity of *Roe*, the Court nonetheless upheld a variety of abortion- related restrictions in a Pennsylvania law. Although leaders in both chambers pledged to push for passage of the legislation before the end of the session, action on the bills was stalled by the prospect that amendments to weaken the measure would likely be attached in one or both Houses.

As in past years, skirmishes over abortion language in various spending bills have continued. The House version of the Defense Department authorization and appropriations bills (H.R. 5006, H.R. 5504) would have permitted servicewomen and military dependents to obtain abortions in overseas military medical facilities if they paid for the procedure themselves. Similar language overturning the 1988 departmental directive which banned such abortions was also included in the Senate defense authorization bill, S. 2629. These provisions were subsequently dropped under threat of a Presidential veto.

Finally, both the House and Senate versions of H.R. 5517, the FY1993 spending bill for the District of Columbia, omitted the provision banning the use of local District funds to pay for abortions. H.R. 5517 was vetoed by the President on September 30. A clean bill, H.R. 6056, absent the abortion language, was passed by both House and Senate the same day.

(For more information on this subject, see CRS Issue Brief 88007.)

LEGISLATION

P.L. 102-394, H.R. 5677

Makes appropriations for the Departments of Labor, Health and Human Services, Education, and related agencies for FY1993. Contains other provisions. Introduced July 23, 1992; referred to Committee on Appropriations. Reported July 23 (H.Rept. 102-708). Passed House, amended, July 28. Referred to Senate Committee on Appropriations, July 30, 1992. Reported, amended, Sept. 10, 1992 (S.Rept. 102-397). Passed Senate, amended, September 18. Signed into law Oct. 6, 1992.

P.L. 102-396, H.R. 5504

Makes appropriations for the Department of Defense for FY1993 and contains other provisions. Introduced June 29, 1992; referred to Committee on Appropriations. Reported June 29 (H.Rept. 102-627). Passed House, amended, July 2, 1992. Referred to Senate Committee on Appropriations July 21, 1992. Reported, amended, Sept. 17, 1992 (H.Rept. 102-408). Passed Senate, amended, September 23. Conference Report (H.Rept. 102-1015) filed October 5; House and Senate agreed same day. Signed into law Oct. 6, 1992.

H.R. 5006 (Aspin)
Authorizes appropriations for military functions of the Department of Defense and national security programs of the Department of Energy. H.R. 5006 introduced Apr. 92, 1992; referred to Committee on Armed Services. Reported May 19, amended (H.Rept. 102-527). Recommitted to Committee on Armed Services June 5. Reported, amended, June 5, 1992. Passed House, amended, June 5. Referred to Senate Committee on Armed Services, June 12, 1992. Passed Senate, amended, Sept. 19, 1992. Conference Report (H.Rept. 102-966) filed in House October 1. House agreed to Conference Report October 3; Senate agreed October 5. Cleared for White House Oct. 5, 1992.

H.R. 5517 (Dixon)
Makes appropriations for the government of the District of Columbia for FY1993 and contains other provisions. Introduced July 1, 1992; referred to Committee on Appropriations. Reported July 1 (H.Rept. 102- 638). Passed House July 8. Referred to Senate Committee on Appropriations, July 21. Reported, amended, July 23, 1992 (S.Rept. 102- 333). Passed Senate, amended, July 30, 1992. Conference Report filed Sept. 24, 1992 (H.Rept. 102-906). House and Senate agreed to Conference Report September 24. Vetoed by President Sept. 30, 1992.

S. 323 (Chafee)
Title X Pregnancy Counseling Act of 1991. Requires the Secretary of HHS to ensure that pregnant women receiving assistance under Title X of the PHS Act are provided with information and counseling. Introduced Jan. 31, 1991; referred to Committee on Labor and Human Resources. Reported June 20, 1991 (S.Rept. 102-86). Passed Senate, amended, July 17, 1991. House struck all after enacting clause and inserted in lieu H.R. 3090. Passed House, amended, Apr. 30, 1992. Conference Report (H.Rept. 102-767) filed in House July 31, 1992. House agreed to Conference Report Aug. 6, 1992; Senate agreed Sept. 14, 1992. Vetoed by President September 25. Passed Senate over veto October 1; House failed to override veto Oct. 2, 1992.

Thomas P. Carr

MLC-011

THE CIVIL RIGHTS ACT OF 1991

...Civil Rights Act of 1991 became law ...

Not since the turbulent 1960s have civil rights issues so dominated public debate in this country or gained so prominent a position on the national policy-making agenda of Congress and the executive branch. Concerns about overt discrimination and exclusion of racial or ethnic minorities and women from important educational and economic opportunities in society shaped the civil rights "movement" of the earlier era. By contrast, a civil rights renascence with less singular public policy focus may now be emerging. One apparent emphasis has been the extension of Federal civil rights protection to certain groups not covered by the earlier law -- the disabled being one example. Also increasingly before Congress is "curative" legislation designed to restore rights eroded by judicial interpretations of existing law. Finally, Federal policy continues to evolve on affirmative action, abortion, and other long- standing issues that defy facile legislative or administrative solution.

Recent legislative activity in Congress may profoundly influence the future development of Federal civil rights law. In 1987, Congress enacted the Civil Rights Restoration Act to reverse the Supreme Court decision in the *Grove City College* case and restore "institution-wide" coverage of various Federal laws barring discrimination in federally assisted programs. This was followed by passage, a year later, of the Fair Housing Amendments Act, a law that not only expanded protections of the landmark 1968 Civil Rights Act to include "handicap" and "family status" discrimination, but also strengthened administrative enforcement of Federal Fair Housing Act guarantees. The Americans with Disabilities Act (P.L. 101-336) extended Federal civil rights protection to the disabled in employment, public accommodations and transportation, and telecommunications services. Another measure, revising the 1967 Age Discrimination in Employment Act to prevent age discrimination in employee benefits, also became law (P.L. 101- 433).

Setting much of the contemporary civil rights agenda of Congress are Supreme Court decisions that have reshaped the judicial landscape for enforcement of Federal civil and constitutional rights. The most recent focal point has been a series of rulings by the High Court on affirmative action and minority-business set-asides, burden-of-proof issues in Federal equal employment opportunity litigation, and the scope and application of the Reconstruction-era civil rights statutes that could dramatically alter the future course of Federal civil rights enforcement.

Culminating a legislative struggle that began after *Wards Cove* and the Supreme Court's other 1989 rulings, the House on November 7 joined the Senate in approving S. 1745, a compromise civil rights bill that had passed the other body a week earlier. The President signed the Civil Rights Act of 1991 into law on Nov. 21, 1991. Final passage followed months of negotiation between the bill's sponsors, led by Senator Danforth, and the Bush Administration. Previously, on June 5, 1991, the House had adopted its own measure, the Brooks- Fish substitute for H.R. 1, designed to ameliorate the impact the High Court rulings that proponents argued had seriously undermined protection of the Federal equal employment opportunity laws. Similarly, the Administration had early in the

session endorsed alternative proposals, H.R. 1375 and S. 611, addressed, in more limited fashion, to burden-of-proof issues in "disparate impact" cases, the *Lorance* and *Patterson* decisions, and enhanced monetary relief for victims of intentional discrimination under Title VII. Not until extrinsic events focused national attention on issues relevant to the civil rights debate in Congress -- for example, workplace sexual harassment -- were the differences that divided the Administration and congressional proponents of the legislation effectively bridged. Basically, two areas of compromise embodied in the "Danforth-Kennedy substitute" for S. 1745 appear to have blunted the threat of Presidential veto that had doomed similar legislation last year.

First, in its definition of "disparate impact" discrimination, the new law codifies the "Griggs" doctrine by shifting to employers the burden of proving "business necessity" and "job related[ness]" for neutral employment criteria -- such as job-testing, educational, or physical strength requirements -- that unintentionally exclude minority groups and women. Unlike earlier versions, however, the law does not specifically define these terms but simply states a purpose "to codify the concepts of "business necessity" and "job related" enunciated by the Supreme Court in *Griggs*...and in other Supreme Court decisions prior to *Wards Cove*...." In effect, the courts remain the final arbiter as to application of the *Griggs* rule to future cases. H.R. 1, by contrast, had adopted an explicit "effective job performance" standard while the Administration bills would have permitted a defense to disparate impact lawsuits predicated more broadly upon any "legitimate employment goal" of the employer.

The enacted version also set a middle course between the House and Administration bills on the "specific causation" aspect of the *Wards Cove* decision -- the requirement that Title VII plaintiffs identify the "particular" employment practice(s) resulting in a disparate impact, not merely the aggregate or "bottom line" impact of the employer's selection procedures. Thus, the law establishes a general rule favoring charge specificity by the Title VII plaintiff but provides an exception for aggregated challenges where "the elements of a respondent's decisionmaking process are not capable of separation for analysis." Wrangling over these *Wards Cove*-related issues were at the core of Administration charges early on that the legislation would force employers to adopt hiring quotas. Not included in the final law was the "anti-quota" language earlier added to H.R. 1 as passed the House.

Another politically divisive issue that had stalled progress on the legislation pertained to the award of compensatory and punitive damages to Title VII victims of intentional employment discrimination. Traditionally, racial minorities are able to obtain a full range of monetary redress for economic and non-economic losses resulting from employment discrimination under Section 1981 of the 1866 Civil Rights Act. Other groups not protected by that law (i.e., women, religious groups, the disabled) were limited by Title VII to injunctive and other "equitable" relief, including limited backpay for lost wages, but no monetary remedies for emotional pain, suffering, inconvenience, mental distress, etc. Civil rights groups argued that this was particularly unfair to victims of sexual and other discriminatory forms of "harassment" who are often left with no effective means of redress.

H.R. 1 would have amended Title VII to authorize jury trials and compensatory and punitive damage awards for victims of intentional employment discrimination, subject to a $150,000 "cap" on punitive damages only. The Administration alternative would have avoided jury trials and made monetary relief, limited in *total amount* to $150,000, an "equitable" remedy within the "discretion" of Federal judges to award only in harassment cases under Title VII. S. 1745 as enacted again stakes out a middle ground. Included within the scope of the damage remedy are Title VII actions predicated on claims of intentional gender, ethnic, or religious discrimination, for which monetary relief could not be recovered under Section 1981, and disability-based discrimination under the ADA where the employer fails to make "good faith efforts" to reasonably accommodate the disabled worker. Monetary damages are not available in disparate impact cases. A heightened culpability standard calling for proof of "malice or reckless...indifference" to protected rights would be required of plaintiffs seeking to recover punitive damages. Governmental entities, including Federal agencies and departments covered by the 1972 Title VII amendments, are amenable to compensatory damage awards for economic and non-economic losses caused by their intentionally discriminatory acts, but may not be held liable for punitive damages as private employers. Finally, the sum total of both compensatory and punitive damages (exclusive of backpay) that may be awarded a job bias victim is limited based on workforce size of the employer: $50,000 for firms with 16 to 100 employees; $100,000 for firms with between 100 and 200 employees; $200,000 for firms with between 200 and 500 employees; and $300,000 for firms with more than 500 employees.

Major controversy arose as the Senate bill proceeded to passage over civil rights protections for House and Senate employees, and high-level employees in the executive branch, including the White House. The 1972 Amendments that had extended Title VII coverage to Federal employees only reached legislative branch employees who were "in the competitive service," a classification that excluded member and co-

mittee staffs, and virtually all other employees of the House and the Senate. Similarly, it appeared that the White House Office, and other entities within the Executive Office of the President, might not be "executive branch agenc[ies]" as that term was defined for purposes of Title VII coverage.

Accordingly, the Grassley-Mitchell Amendment was added on the Senate floor to extend not only Title VII but also the ADEA and ADA to Senate employees and to Presidential appointees in the executive branch, including White House office employees. Excluded from coverage, however, are Cabinet officers or others whose appointments are subject to Senate confirmation. For Senate employees, a procedure is established that includes counseling, mediation, and a hearing before a three-member independent panel which is empowered to order all "appropriate" Title VII remedies, including compensatory damages. Any party may then seek review of hearing board decisions by the Select Committee on Ethics or the U.S. Court of Appeals for the Federal Circuit. Executive branch employees take their complaints to the Equal Employment Opportunity Commission or a similar entity to be established by the President for initial determination with a right to appeal to the Federal circuit court. House employees continue to be covered by internal fair employment practice procedures established by House rule and incorporated by Congress into the 1991 Act. An amendment offered by Senator Rudman requires the President or Senate members to reimburse the Treasury within 60 days for any damages paid out as the result of their discriminatory actions.

The final legislation also deals with a host of other employment discrimination issues raised by recent judicial decisions. Thus, the new law modifies the "same decision" rule applied by *Price Waterhouse* to "mixed motive" Title VII cases to provide for declaratory and injunctive relief, together with attorney's fees and costs, for victims of an unlawful employment practices motivated by both discriminatory and non- discriminatory factors. It specifically denies damages or affirmative hiring relief in such situations, however. It reverses *Martin v. Wilks* by precluding collateral "reverse discrimination" challenges to Title VII litigated or consent judgments by nonparties who had "actual notice" and "reasonable opportunity to present objections", or "whose interests were adequately represented" by other challengers to the judgment or order. The measure extends Title VII protections to persons employed abroad by domestic companies, effectively overcoming the decision last term in *EEOC* v. *Aramco Oil Co.* The Title VII statute of limitations for filing charges with respect to an intentionally discriminatory seniority system is defined to commence when 1) "the seniority system is adopted," 2) when an individual "becomes subject" to it, or 3) when the "person aggrieved is injured" by "application" of the system or a provision of it. This alters the holding in *Lorance v. AT&T Technologies*. By addition of a new subsection to Section 1981, the legislation restores coverage of the 1866 Civil Rights Act, as restricted by *Patterson v. McLean Credit Union* to the "formation" or "enforcement" aspects of an employment contract, to reach workplace harassment and other forms of racial discrimination in contractual relations. The "race norming" controversy is addressed by a provision that makes it unlawful "to adjust the scores of, use different cutoff scores for, or otherwise alter the results of, employment related tests" for minorities.

Some uncertainty persists concerning the retroactive effect, if any, of these legal changes on cases already pending in the courts. The measure provides generally that "this Act and the amendments made by this Act shall take effect upon enactment." During debate, Senator Danforth, as principal sponsor, stated an "intention" that the law not "have any retroactive effect or application," specifically citing a concurring opinion of Justice Scalia in the recent *Bonjourno* case. Justice Scalia there asserted a "traditional presumption of nonretroactivity" in support of the proposition that "the legal effect of conduct should ordinarily be assessed under the law that existed when the conduct took place." However, other case law precedent (the "*Thorpe- Bradley*" rule) accords limited retroactive effect to newly enacted legislation, at least as applied to trial court decisions pending on appeal on the enactment date. Justice Scalia noted the "confusion" in *Bonjourno* and argued for a broad principle of nonretroactivity that would insulate all pre- enactment "conduct," whether or not presently the subject of judicial inquiry, from changes in law effected by a later enacted statute. Senator Danforth adopted the same position on the floor and stated "the sponsors disapproval" of the *Thorpe-Bradley* rule. Senator Kennedy, on the other hand, argued in favor of retroactive application based upon the *Thorpe-Bradley* rule and related lower court authority. Thus, conflict in judicial authority on the retroactivity issue is mirrored by the measure's legislative history so that perhaps, as Senator Kennedy states, "it will be up to the courts to determine the extent to which the bill will apply to cases and claims that are pending on the date of enactment." However, the stated intentions of the bill's sponsors, particularly the remarks of Senator Danforth, will probably inform the judicial inquiry into congressional intent on this particular issue. Another subsection specifically exempts the *Ward Cove* case, still before the Federal courts, from the operation of the new law.

(For more information on this subject, see CRS Issue Brief 90027.)

LEGISLATION

P.L. 102-166, S. 1745

Civil Rights Act of 1991. Amends the Civil Rights Act of 1964 to strengthen and improve Federal civil rights laws, to provide for damages in cases of intentional employment discrimination, to clarify provisions regarding disparate impact actions, and contains provisions for other purposes. Introduced Sept. 24, 1991. Passed Senate, amended, Oct. 30, 1991. Passed House November 7. Signed into law Nov. 21, 1991.

Charles Dale

MLC-012

PARENTAL LEAVE LEGISLATION

...measure vetoed again...

Legislation passed by both the 101st and 102d Congresses, but vetoed by the President, would have required employers to grant leave (1) to parents, to care for a newborn or newly adopted child or a seriously ill child or parent and (2) to temporarily disabled workers, including those disabled because of pregnancy. Although varying leave benefits applicable to parental and temporary disability needs are commonly available to many American workers through public and private employment benefit plans, the United States is the only major industrialized country that does not have a national policy standardizing such benefits. During the past three decades, major changes have taken place in the composition of the U.S. workforce as greater numbers of women with young children have become wage earners and many families have become dependent on these wages.

In the 102d Congress, legislation on parental and medical leave was given high priority by the leadership, as indicated by introductory remarks in both congressional chambers and by the assignment of low introduction numbers. H.R. 2 (Clay) and S. 5 (Dodd) were almost identical to a bill vetoed in the 101st Congress. Both measures would have provided 12 weeks of combined family and medical leave over a 1-year period. Employers with fewer than 50 workers would have been exempted. Only workers employed for one year at 20 hours or more per week would have been eligible. The bills required continuation of an employee's health insurance benefits and reinstatement in the same or a similar job at the end of leave. All leave provided under these bills would have been unpaid; however, appropriate employer-provided paid leave could have been substituted for unpaid leave.

Amended on the floor and passed on Oct. 2, 1991, by a vote of 65-32, the Senate bill included several modifications. Under an amendment by Senator Bond, eligibility would have been restricted to employees who had worked 1,250 hours or 25 hours per week over the previous 12 months, up from 1,000 hours or 20 hours per week; penalties against employers who violated provisions of the bill would have been limited to double the actual losses, as opposed to quadruple damages, including wages, salary, employment benefits, and other compensation, plus interest. The Bond amendment also would have allowed employers to deny leave to the highest paid 10% of the company's workforce and to recapture health insurance premiums paid during leave if the employee did not return to work. Two other changes were made earlier: as introduced at the beginning of the 102d Congress, the bill would have provided civil service employees with the same leave benefit as those in the private sector, 12 weeks of combined parental and medical leave. Coverage of Senate employees was added by an amendment in the Labor and Human Resources Committee on April 24.

The House endorsed nearly identical language on Nov. 13, 1991, by a vote of 253 to 177. Like the Senate vote, the House margin was a few votes shy of the two-thirds majority necessary to override a promised presidential veto. On Sept. 22, 1992, the President vetoed the bill approved by both houses (S. 5). The Senate overrode, 68-31; however, the House vote, 258-169, failed to reach the two-thirds majority needed. In his veto message, the President proposed an alternate: to allow businesses with fewer than 500 employees a refundable tax credit to be used to provide up to 60 days of leave for family responsibilities, including the birth or adoption of a child or for care of a seriously ill family member. Participation of employers would be voluntary. Congress did not take up the President's proposal before attempting to override the veto. Congressional sponsors of family leave plan to reintroduce the measure in the 103rd Congress.

Those favoring the establishment of parental and temporary medical disability leave benefits cite the need to accommodate far-reaching changes in the family and the workforce. Proponents argue that although some States now require maternity or family-related leave benefits and some firms provide such benefits voluntarily, a national standard is necessary so that a worker's access to leave will be less dependent on such factors as geographic location, industry, or company size. They further note that where leave benefits are not the same for all workers disabled for nonoccupational medical reasons, women may be disadvantaged in the workplace because they may be viewed by employers as potentially more expensive employees.

Opposition to the proposal comes primarily from business groups arguing that all employee benefits, however socially desirable, are costly for employers, who must either absorb these expenses or pass them on to consumers. In addition, they state that guaranteeing the job of an employee on long-term parental or temporary medical disability leave may invite abuse and also be more burdensome for small businesses (representing the majority of businesses), with their limited personnel resources, than for large businesses. Those opposed also argue that to allow needed flexibility, provision of specific benefits should remain voluntary on the part of employers or be subject to labor-management negotiation rather than be mandated by the Federal Government.

(For more information on this subject, see CRS Issue Brief 86132, *Parental Leave Legislation*.)

LEGISLATION

H.R. 2 (Clay)/S. 5 (Dodd)

Family and Medical Leave Act of 1991. Applied to employers with 50 or more employees. Entitled eligible employees up to 12 weeks of combined parental leave and temporary medical leave during any one calendar year in cases involving the birth, adoption, or serious illness of a child, the serious health condition of a parent, or the inability to work due to a serious health condition. Provided that such leave might be leave without pay. Provided for protection of employees' employment and benefit rights during and after such leaves. Covered employers in the public and private sectors. Provided for administrative and civil enforcement. Authorized a commission to determine ways of providing salary replacement for employees who take parental and disability leaves. H.R. 2 introduced Jan. 3, 1991; referred jointly to Committees on Education and Labor, on Post Office and Civil Service, and on House Administration. Reported, amended, June 27, 1991, by Committees on Education and Labor (H.Rept. 102-135, Part I); and Post Office and Civil Service (H.Rept. 102-135, Part II). S. 5 introduced Jan. 14, 1991; referred to Committee on Labor and Human Resources. Reported to Senate (S.Rept. 102-68) May 30. Passed Senate, amended, by voice vote October 2. Passed House, amended, Nov. 13, 1991, in lieu of H.R. 2. Conference report (H.Rept. 102-816) agreed to in Senate by unanimous consent Aug. 11, 1992. Agreed to in House, by a vote of 241-161, September 10. Vetoed by President September 22. Senate overrode veto (68- 31) September 24. House failed to override (258-169) Sept. 30, 1992.

Leslie W. Gladstone

MLC-013

CABLE TELEVISION RATE REREGULATION

...cable measure becomes law...

Conflicting reports regarding the frequency and magnitude of cable rate increases, coupled with a rising number of customer service complaints, prompted the examination of the cable television industry with particular emphasis on rate reregulation. A major focal point for this examination was the 1984 Cable Communications Policy Act (P.L. 98-549), which contained the Federal guidelines for cable industry regulation.

The debate over what, if any, action should be taken to address concerns regarding cable system rate and customer service complaints, as well as the alleged ability of cable system operators to thwart the development of competing video services, generated significant controversy. Critics of the cable television industry sought policy changes to address a large number of complaints. Cable television industry supporters, however, felt that additional regulation was an unnecessary government intrusion that would only stifle the industry to the ultimate detriment of consumers.

Both the Congress and the FCC took active roles in the policy debate. A number of policy options were examined as potential solutions to resolve these controversies and both the FCC and Congress adopted measures to address these concerns. The FCC, in June 1991, chose to redefine the "effective competition" standard to increase the number of cable television systems subject to rate regulation.

The 102d Congress pursued a broader-based legislative solution that contains among other provisions those dealing with cable industry rate, service and equipment regulation, local broadcast station carriage, program access, and additional pricing and behavioral restrictions. The Senate on Jan. 31, 1992, passed a cable reregulation measure, S. 12, and the House passed its companion measure, H.R. 4850, on July 23, 1992. The conference measure (S. 12) passed both the House (280-128) and the Senate (74-25) despite President Bush's stated intention to veto the measure. President Bush did veto S. 12 on Oct. 3, 1992, but the Congress overrode his veto and the measure became law (P.L. 102-385) on Oct. 5, 1992.

(For more information on this subject, see CRS Issue Brief 91079.)

LEGISLATION

P.L. 102-385, S. 12

Amends the Communications Act of 1934 to require cable franchise operators to carry certain local broadcast stations, including local educational programming. Authorizes cable television franchising authorities to regulate cable television rates. Sets forth distribution requirements for producers of video programming owned by or affiliated with cable television systems. Introduced Jan. 14, 1991; referred to Committee on Commerce. Subcommittee on Communications held hearings Mar. 14, 1991. Reported by Committee on Commerce, amended, June 28, 1991 (S.Rept. 102-92). Passed Senate, amended, Jan. 31, 1992. House struck all after enacting clause and inserted in lieu H.R. 4850. Passed House, amended, July 23, 1992. Conference Report (H.Rept. 102-862) filed Sept. 14, 1992. Vetoed by President Bush October 3. Passed House and Senate over veto October 5. Became public law Oct. 5, 1992.

H.R. 4850 (Markey)

Amends the Communications Act of 1934 to provide increased consumer protection and to promote increased competition in the cable television and related markets. Introduced Apr. 10, 1992; reported out of Subcommittee on Telecommunications Apr. 8, 1992. Reported by Committee on Energy and Commerce, amended, June 29, 1992 (H.Rept. 102-628). Passed House, amended, July 23, 1992.

Angele A. Gilroy

EDUCATION

MLC-014

EDUCATION FUNDING ISSUES FOR FY1993

...Congress completes legislation on FY1993 appropriations...

FY1993. Congress completed legislation to provide FY1993 appropriations for programs administered by the Department of Education (ED). P.L. 102-394, the Labor, HHS, and ED Appropriations act includes $31.3 billion for ED, $1.9 billion more than was provided in FY1992. The FY1993 enacted amount is $1.1 billion less than the President's budget request of $32.3 billion, and is within the limits agreed to in the concurrent resolution on the budget for FY1993. Prior to final passage, the House bill would have provided ED with $32.0 billion; the Senate bill, $31.5 billion.

Funding for two programs -- Guaranteed Student Loans (GSL) and Pell Grants -- accounted for most of the increases for FY1993. The program and accounting requirements for the GSL program, the continuing pressure from prior year obligations caused by continuing under-estimations of the costs of the Pell Grant program, and the necessity to hold funding to within the spending limits established through the budget resolution, limited the ability of the Congress to increase funding significantly for other ED programs.

The FY1993 act provides small increases for a number of ED programs, including the "Even Start" family literacy program, math and science education programs, grants to States for the education of disabled children, vocational rehabilitation, vocational and adult education programs, Perkins loans, and the Department's administration costs. Small decreases or level funding occurred in other program areas, with the major exception of "educational excellence" activities. For FY1992, $99.1 million was provided for proposed "educational excellence" activities; however, since no legislation was enacted, no additional funds have been provided for FY1993. The FY1993 act does not fund any of the President's proposed initiatives in elementary, secondary, or postsecondary education.

The President's FY1993 budget request of $32.3 billion for ED programs represented an overall increase of 9.8%, nearly $2.9 billion above the FY1992 ED budget authority of $29.4 billion. As in the appropriation legislation discussed above, this requested increase would primarily have funded program changes in the GSL program. Therefore, the difference between FY1992 and FY1993 for GSLs results primarily from the implementation of these changes rather than being a function of the actual amount needed in FY1992 to finance the GSL programs. The President's request also included a net increase of $1.6 billion for a variety of discretionary programs -- this increase represented the largest dollar increase in domestic discretionary spending for any Department. The Administration's proposals to create and finance school choice programs dominated these discretionary program increases. Over 30 programs would have lost funding under the Administration's budget proposal. The aggregate funding for these programs was $563 million in FY1992 and involved relatively small discretionary grant programs.

FY1992. In addition to FY1993 legislation, the Congress has made several adjustments to the FY1992 funding levels. P.L. 102-298 eliminated $2.5 million in budget authority for selected ED programs including Chapter 1, vocational and adult education, student aid, impact aid, and research. While Congress passed FY1992 emergency supplemental appropriations (P.L. 102-302), no additional funds were provided to ED.

LEGISLATION

P.L. 102-298, H.R. 4990

Rescinding Certain Budget Authority, and for Other Purposes. Among other provisions rescinds $2.5 million in FY1992 budget authority for certain ED programs, including $1.3 million for vocational and adult education and $760,000 for the Chapter 1 program. Reported to the House by the Committee on Appropriations (H.Rept. 102-505) on Apr. 29, 1992. Amended and passed by the House on May 7, 1992. Amended and passed in the Senate in lieu of S. 2403 on May 12, 1992. Conference report (H.Rept. 102- 530) agreed to in House and Senate on May 21, 1992. Signed into law June 4, 1992.

P.L. 102-302, H.R. 5132

Makes dire emergency supplemental appropriations for FY1992. While the Senate and first version of the conference agreement contained additional funds for ED, the final version of the bill does not contain additional funds for ED. Reported by the Committee on Appropriations to the House (H.Rept. 102-518) on May 12, 1992. Passed the House on May 14, 1992. Reported to the Senate by the Committee on Appropriations without written report on May 19, 1992. Passed the Senate amended on May 21, 1992. Conference report (H.Rept. 102-577) reported to the House and Senate on June 17; revised and passed the House and Senate on June 18, 1992. Signed into law on June 22, 1992.

P.L. 102-394, H.R. 5677

The Departments of Labor, Health and Human Services and Education, and Related Agencies Appropriations, 1993. Reported to the House by the Committee on Appropriations (H.Rept. 102-708) on July 23, 1992. Amended, with amendments affecting ED programs, on July 28, 1992, providing $32.0 billion for ED, with increases above the FY1992 level concentrated on the Guaranteed Student Loan and Pell Grant program. Senate Committee on Appropriations reported bill (S.Rept. 102-397) with $31.5 billion for ED programs. Passed Senate, amended, Sept. 18, 1992. Conference report, (H.Rept. 102-974), with $31.3 billion for ED programs, was agreed to by the House and Senate on Oct. 3, 1992. Signed into law (P.L. 102-394) on Oct. 6, 1992.

H.Con.Res. 287/S.Con.Res. 106

First Concurrent Resolution on the Budget for FY1993. Presents two alternative plans for the funding of ED programs. House plan would increase ED funding above a baseline (FY1992 funding level adjusted for inflation). Reported by the House Committee on the Budget, H.Rept. 102- 450, March 2, 1992. Passed the House on March 5, 1992. Senate plan would freeze Ed programs at their FY1992 funding level. Reported by the Senate Budget Committee as an original measure without written report on Apr. 3, 1992. Amended and passed the Senate on Apr. 9, 1992. Senate incorporated S.Con.Res 106 in H.Con.Res. 287 as an amendment and passed H.Con.Res 287 on Apr. 10, 1992. Conference agreement (H.Rept. 102-529) provides $36.6 billion for Function 500 without any specific provisions for education funding. The conference report was agreed to in the House and Senate on May 21, 1992.

Angela Evans

MLC-015

HIGHER EDUCATION

...Higher Education Amendments signed...

The Higher Education Act of 1965 (HEA), authorizing the major Federal programs supporting postsecondary education, was scheduled to expire during the 102d Congress. Of primary concern is Title IV of the Act, which currently provides about $18 billion in student aid to help financially needy students attain postsecondary education in colleges, universities, and trade and technical schools. The types of aid available under Title IV include student loans, grants, work study assistance, and fellowships.

Three underlying trends in the 1980s are likely to continue to have an impact on future Federal student aid policies. They are the increases in college costs that exceed inflation, the growing predominance of loans rather than grants in the type of aid available to students, and the growth in the participation of students attending proprietary (for-profit) vocational schools in student aid programs. These developments provide the context for several issues that were the focus of the hearings on reauthorization of the Higher Education Act during the 1st session of the 102d Congress. These issues included the following: Do concerns about Guaranteed Student Loan (GSL) default costs and program integrity suggest the need for reform of the structure for regulating institutional participation in student aid programs? How can complex application forms for Federal student aid and the underlying formulas for determining a family's financial need be simplified? Should the balance between loan and grant aid be shifted to reduce students' increasing reliance on loans? Can middle-income students' access to aid be increased, so that increasing college costs will not restrict their postsecondary options? How can the access of disadvantaged students to postsecondary opportunities be improved?

After extensive hearings focusing on the issues discussed above, bills to reauthorize, revise, and extend the HEA were reported by committees in both the House (H.R. 3553) and the Senate (S. 1150). Different versions of a reauthorization bill (S. 1150) passed both houses with large bipartisan majorities. Most areas of partisan differences included in the bills originally reported were deleted prior to Floor action. Conferees resolved the differences between the House and Senate versions of S. 1150 and both Houses have agreed to the conference report. S. 1150 was signed into law on July 23, 1992 (P.L. 102-325).

The conference version of S. 1150 makes major changes in the following areas: the structure and standards by which postsecondary education institutions

become eligible to participate in the student aid programs authorized under Title IV of the HEA; the need analysis formulae and application forms and procedures for determining a student's financial need for student assistance; the award rules and maximum award authorized in the Pell Grant program; the terms of loans and eligibility for GSL programs; creation of a pilot Federal direct loan program; new programs that encourage and support early intervention efforts to improve high school graduation and postsecondary attendance for disadvantaged students; and new initiatives for recruitment, preparation, and inservice training of elementary and secondary education teachers. (For further information, see CRS Issue Brief 90028, *Higher Education: Reauthorization of the Higher Education Act*, by Margot A. Schenet.)

LEGISLATION

P.L. 102-325, S. 1150

Higher Education Amendments of 1992. The Senate version of this legislation (S. 1150) was introduced May 23, 1991. It was reported, amended, by the Labor and Human Resources Committee on Nov. 12, 1991 (S. Rept. 102-204). A modified Committee amendment in the nature of a substitute to S. 1150 was passed on Feb. 21, 1992. The House version of this legislation (H.R. 3553) was introduced as a clean bill, Oct. 11, 1991. It was reported, amended, by the Education and Labor Committee on Feb. 27, 1992 (H.Rept. 102-447). H.R. 3553 was amended and passed by the House on Mar. 26, 1992. S. 1150 was passed by the House on Mar. 26, 1992, with the text of H.R. 3553, as passed, inserted in lieu of the Senate-passed text. Conference committee reached agreement on this legislation on June 16, 1992. The conference agreement was reported on June 29, 1992 (H.Rept. 102- 630). The Senate approved the conference agreement on June 30, 1992. The House approved the conference agreement on July 8, 1992 and it was signed into law on July 23, 1992.

Margot A. Schenet

MLC-016

NATIONAL EDUCATION GOALS

...Administration and Governors set six goals...

The President and the Nation's Governors adopted six National Education Goals to be achieved by the year 2000. The Goals include improvements in readiness to begin school; high school graduation rates; students' mastery of the curriculum; math and science achievement compared to that of other nations; adult literacy and skills; and elimination of drug abuse and violence in the schools. Congressional and public interest in the Goals has grown, and they have become an organizing theme for proposals for education reform. The President and the Governors also established the National Education Goals Panel to monitor and report on progress toward the Goals.

The Goals present two overarching issues for Congress: (1) identifying and implementing education reform strategies most likely to help States and local educational agencies achieve the Goals; and (2) shaping appropriate Federal and congressional roles in this effort. Proposed strategies reflect different conceptions of the educational problems faced by schools and call for different Federal and congressional roles. These strategies include the following: national curriculum standards and testing; comprehensive systemic reform of all State or local policies regarding goals, curriculum, assessment, etc.; new model schools; parental choice of schools; more resources for high need schools; deregulation of schools in return for new forms of outcome-based accountability; and rewards and sanctions for schools.

Legislation considered by the Congress embraces several of these strategies. Some of this legislation also embraced a more active congressional role in the reform effort. On Sept. 25, 1992, a conference committee reported S. 2, the Neighborhood Schools Improvement Act. The House agreed to the conference report on September 30, but the Senate failed to invoke cloture on debate over S. 2 on October 2 and the measure died with adjournment. This legislation sought to codify the Goals in statute; authorize $800 million for a new program of State-level systemic reform plus grants for systemic reform of local educational agencies (LEAs) plus, primarily, restructuring of individual public schools; authorize waiving of designated Federal education regulations in up to 750 schools nationwide; change the structure of the National Education Goals Panel to increase congressional and State legislature influence on its membership and activities; support the development and certification of voluntary national curriculum content and school delivery standards; authorize a new council to make recommendations regarding educational standards and model assessments; authorize support for development of model assessments in mathematics and science; and require the collection and analysis of information on State school finance programs.

President Bush proposed an education reform strategy, entitled AMERICA 2000 (H.R. 2460, S. 1141), to accomplish the Goals. This strategy addresses four broad areas: reform of current schools through activities such as school choice; development of new model schools; enhancement of workers' skills; and enlistment of communities in support of this education strategy. AMERICA 2000's initial authorization (FY1992) for elementary and secondary programs is $690 million. While S. 2 was said to respond to AMERICA 2000, it contained none of the specific provisions of that proposal.

(For further information, see CRS Issue Brief 92012, *National Education Goals: Federal Policy Issues*, by James Stedman and Wayne Riddle.)

LEGISLATION

P.L. 102-26, H.R. 1285
Higher Education Technical Amendments of 1991. Among other provisions, amends the Adult Education Act (AEA) to authorize education programs for commercial drivers to increase their literacy skills. Signed into law Apr. 9, 1991.

P.L. 102-62, S. 64
Education Council Act of 1991. Establishes a National Education Commission on Time and Learning and a National Council on Education Standards and Testing; authorizes a grant for the National Writing Project and a contract with the Center for Civic Education on the U.S. Constitution. Signed into law June 27, 1991.

P.L. 102-73, H.R. 751
National Literacy Act of 1991. Authorizes a variety of adult and family literacy programs; also establishes Federal program eligibility for the Federated States of Micronesia and the Republic of the Marshall Islands. Signed into law July 25, 1991.

P.L. 102-103, H.R. 2313
National Dropout Prevention Act of 1991 (Title I). Among other provisions, extends the School Dropout Demonstration Assistance Act of 1988, and amends the literacy and life skills programs for prisoners under the National Literacy Act of 1991. Signed into law Aug. 17, 1991.

P.L. 102-170 (H.R. 3839)
Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act of 1992. Among other provisions, provides $100 million for "new AMERICA 2000 initiatives" if they are enacted by Apr. 1, 1992. S. 2 would amend this provision to include "or any educational reform program" after the AMERICA 2000 reference. Signed into law Nov. 26, 1991.

H.R. 2312 (Kildee)
Among other provisions, makes certain technical and conforming amendments to the Follow Through Act and the Head Start Transition Projects Act. Reported by Education and Labor Committee on May 23, 1991 (H.Rept. 102-76). Passed by House on June 3, 1991. Passed by Senate, in amended form, on Aug. 2, 1991.

H.R. 4014 (Owens)
Educational Research, Development, and Dissemination Excellence Act. Amends and extends the ED's Office of Educational Research and Improvement's research functions. Includes provisions concerning educational assessments. Introduced Nov. 26, 1991; ordered reported by the Committee on Education and Labor on May 20, 1992. Passed by the House on Sept. 22, 1992.

H.R. 4323 (Kildee and Ford)
Neighborhood Schools Improvement Act. Introduced on Feb. 26, 1992; reported by the Committee on Education and Labor on July 23, 1992. This bill supersedes H.R. 3320, which had been reported by the Committee on Education and Labor (H.Rept. 102-294).

S. 2 (Kennedy)
Neighborhood Schools Improvement Act. Described in detail in text above. Reported (S.Rept. 102-43) Apr. 19, 1991; passed by the Senate on Jan. 28, 1992; passed by the House, amended to incorporate the provisions of H.R. 4323, on Aug. 12, 1992. Reported by conference committee on Sept. 25, 1992 (H.Rept. 102-916). House agreed to conference report on Sept. 30, 1992. Senate failed to invoke cloture on debate over S. 2 on Oct. 2, 1992.

James B. Stedman and Wayne Riddle

ELECTIONS

MLC-017

CAMPAIGN FINANCING

...Senate fails to override President's veto...

Concerns over the high cost of campaigns and the prominent funding role of political action committees (PACs) have led to legislative proposals aimed at modifying the Nation's campaign finance laws. While the $445 million spent on 1990 congressional campaigns was down from the prior election, costs have risen steeply since data were first compiled in the 1970s. Increasing costs have fostered the perception that campaign spending is out of control, that officeholders spend too much time raising funds, and that elections are "bought and sold." PACs contributed 34% of House and Senate general election candidates' funds in 1990, up from less than 20% in 1976. Such trends have, in the view of critics, increased public concern that lawmakers are too reliant on special interests to make public policy that serves the national interest. Through a strong propensity to support incumbents, PACs have contributed to what many see as an institutionalized incumbency bias in the electoral system, hindering a desirable level of competition, especially for House seats.

Many observers insist, however, that spending in modern elections is not out of line with the cost of goods and services in other sectors of society, especially given the importance of television, an expensive commodity, in modern campaigns. High spending,

they say, reflects electoral competitiveness, which is good for the political system. Furthermore, many believe that PACs play a useful role by promoting participation of large numbers of citizens. They argue that PACs represent the wide diversity of interests that have historically competed within our political system.

Campaign spending limits, which supporters view as essential in curbing the reliance on money in elections but which critics see as government intrusion that could impede electoral competition, have been a major component of some bills. Closely linked has been the issue of public financing, seen by supporters of limits as crucial to obtaining voluntary compliance with limits but by opponents as wasteful spending of tax money. The PAC controversy has evolved within Congress to a difference between prohibiting them completely and restricting them further than current law.

In the 101st Congress, the House and Senate passed separate reform bills. The Senate approved the Democratic-sponsored S. 137, major provisions of which included voluntary spending limits for Senate candidates in conjunction with such public benefits as broadcast vouchers, reduced broadcast and postal rates and access to public funds when opponents do not limit their expenditures, and a ban on PAC contributions. The House passed H.R. 5400, a bill supported by the Democratic leadership. Major provisions of the bill included voluntary expenditure limits in conjunction with reduced television costs and postal rates, 100% tax credits for small in-State contributions, an aggregate PAC receipts limit, and different contribution limits for PACs with large versus small donors. No House-Senate conference was convened to seek a compromise between the two bills.

The issue progressed further in the legislative process in the 102d Congress. On a largely partisan vote of 56-42, the Senate passed S. 3 on May 23, 1991. Similar to S. 137 (101st Congress), major features included voluntary spending limits in Senate races, along with cost-reduction benefits and conditional public subsidies; a ban on PAC contributions; and restrictions on perceived loopholes in current law. On Nov. 25, 1991, the House passed a Democratic-leadership bill by a vote of 273-156. H.R. 3750, which had been the outgrowth of the work of the Task Force on Campaign Finance Reform established by the House Administration Committee, included such major features as voluntary limits on overall campaign and personal spending by House candidates in exchange for matching funds (up to one- third of limit) and lower postal rates (for up to three district mailings); aggregate limits on receipts from PACs and large donors; and restrictions on perceived loopholes.

A House-Senate conference committee filed a report on Apr. 3, 1992, containing a new version of S. 3, the Congressional Campaign Spending Limit and Election Reform Act of 1992. It combined features of both bills, with the House and Senate bills' systems of limits and benefits left largely intact for candidates to the respective houses. Major changes worked out by the conference committee included the adoption of an aggregate PAC receipts limit for Senate candidates (rather than a prohibition on PAC donations); a lower limit on PAC contributions to Senate candidates ($2,-500); soft money restrictions similar to those in the Senate's initial version of S. 3 (i.e., no soft money during a Federal election period); uniform prohibition on bundling in Federal elections (except by specified agents); and uniform restrictions on independent expenditures. Before S. 3 could be implemented, Congress was required to enact a mechanism to pay for any matching funds and public benefits. (See *Legislation* section below for summary of S. 3.)

On Apr. 9, 1992, the House passed the conference report on S. 3 by a vote of 259-165. The Senate passed it by a vote of 58-42 on April 30. On May 9, the bill was vetoed by President Bush, who expressed strong opposition to any bill with spending limits and public financing (which opponents insisted would have to occur in order for adequate funding to be provided for Senate and House elections). A veto override attempt failed in the Senate May 13, on a 57-42 vote, ending chances for the legislation in the 102d Congress.

(For further information, see CRS Issue Brief 87020, *Campaign Financing*.)

LEGISLATION

S. 3 (Boren)

Congressional Campaign Spending Limit and Election Reform Act of 1992. Establishes voluntary system of campaign spending limits for congressional candidates (including limits on spending in general and primary elections and from personal funds), with participating Senate candidates eligible for broadcast vouchers, lower broadcast rates, and one mailing per eligible voter at reduced rate, and with House candidates eligible for matching funds and one mailing per eligible voter at reduced rate; allows additional spending by and provides payments to candidates opposed by non-participating opponents (once they spend a certain percentage of the spending limit); provides for payments to match independent expenditures made against participating candidate or for opponent; implements a system conditioned on Congress enacting a funding mechanism for benefits; imposes an aggregate limit on PAC receipts by House and Senate candidates; lowers limit on PAC contributions to Senate candidates; imposes aggregate limit on House candidates' contributions from large donors; bans leadership PACs; requires broadcasters to provide non- preemptible time to all candidates at lowest unit rate; prohibits bundling of contributions, except by specified agents; prohibits independent expenditures by parties and by

those who may have communicated or cooperated with a candidate; increases disclosure requirements for independent expenditures; prohibits party soft money during Federal election period (as defined) or for any activity solely to benefit a Federal candidate; limits party committee spending in connection with Federal elections; prohibits Federal candidates from raising money for tax- exempt groups involved significantly in voter registration or get-out-the- vote drives; augments candidate disclaimers on all advertisements; limits carryover of campaign funds to next election cycle; increases information required to be reported to and disclosed by the Federal Election Commission. Introduced Jan. 14, 1991; referred to Committee on Rules and Administration. Reported favorably (S.Rept. 102-37) Mar. 20, 1991. Passed Senate, amended, May 23. Passed House, with text of H.R. 3750 substituted in lieu thereof, November 25. Conference report (H.Rept. 102-479) filed in House Apr. 3, 1992. Amended conference report (H.Rept. 102-487) filed in House April 8. Conference report agreed to in House April 9 and in Senate April 30. Vetoed by President May 9. Senate failed to override May 13, 1992.

Joseph Cantor

MLC-018

UNIVERSAL VOTER REGISTRATION

...legislation urged for over a decade...

Between the 1960 and 1988 Presidential elections, the ratio of eligible citizens voting in the United States declined almost 15%. In the Presidential elections of 1984 and 1988, only slightly more than half of eligible voters actually voted. While turnout increased about 5% (to 55%) in the November 1992 elections, this figure is still much lower than the high point of the 1960s. The drop in voter turnout has led many for over a decade to press for legislation that would create some kind of universal voter registration system to make registering to vote much easier. By simplifying and making voter registration easier, it is argued, more persons will register and turn out to vote. If the difficulty of registering is a major reason why individuals do not vote, then liberalizing the registration procedures should help boost turnout.

Those dubious of the need for Federal action, however, point out that many States have adopted more liberal registration procedures in the past decade, yet turnout continues to decline. Many argue that lower turnout occurs, not because of the difficulty in registering, but rather because citizens, for a variety of reasons, are no longer interested in politics or are alienated from the current political environment. Consequently, changing voter registration provisions is no guarantee that either registration or turnout will increase to the degree anticipated by proponents. Estimates by a variety of scholars suggest that liberalizing voter registration procedures could increase turnout by 6 to 10%, but still no higher than the 1960 level.

S. 250, the National Voter Registration Act of 1992, was the main bill on the subject considered by the 102d Congress. The measure passed the House on May 21, 1992, and the Senate on June 16, but was vetoed by President Bush on July 2, 1992. With Clinton's election to the presidency, it is expected that a similar bill will be reintroduced in the 103rd Congress.

(For more information, see CRS Reports 92-637 GOV, *Voter Registration and Turnout: 1948-1990* and 90-105 GOV, *Voter Registration and Turnout in States With Mail and Motor-Voter Registration Systems*.)

LEGISLATION

S. 250 (Ford)
National Voter Registration Act of 1991. Establishes national voter registration procedures for elections for Federal office. Requires that each State shall establish procedures to permit voter registration by (1) application in person simultaneous with application for a motor vehicle driver's license; (2) mail application; and (3) application in person in a specified State, county, or municipal agency. Provides procedures and standards regarding the maintenance and confirmation of voter rolls to assure that voters' names are maintained on the rolls so long as they remain eligible to vote in their current jurisdiction. Introduced Jan. 23, 1991; reported from Committee on Rules and Administration (S.Rept. 102-60) May 21, 1991. Passed Senate (61-38) May 20, 1992. Passed House (268-153) June 16, 1992. Vetoed by President July 2, 1992. Override attempt in Senate failed (62-38) Sept. 22, 1992.

Robert Sutter

ENERGY

MLC-019

AUTOMOBILE FUEL ECONOMY STANDARDS: ANOTHER CUP OF CAFE?

...energy bill lacks CAFE provisions...

One of the least controversial provisions of the Energy Policy and Conservation Act of 1975 (P.L. 94-163) established corporate average fuel economy (CAFE) standards for new passenger cars. Amidst the steepening of oil prices in the early 1980s, there was little expectation that manufacturers would have any difficulty complying with the standards. However, oil prices softened and the demand for small cars dimin-

ished. In response to petitions from manufacturers facing stiff civil penalties for noncompliance, the National Highway Traffic Safety Administration (NHTSA) relaxed the standard for model years 1986-1989. The current standard is 27.5 mpg.

Amidst the renewed sense of urgency about growing U.S. dependence upon imported oil, proposals to boost CAFE received close attention during the first session of the 102d Congress. The President's National Energy Strategy (NES), released in February 1991, proposed a study to analyze what might be the most feasible level that best balances the costs and benefits of higher CAFE to consumers, the auto industry, and the economy. This study, released in the spring of 1992, concluded that substantial improvements in fuel economy are still possible, but probably cannot be achieved as quickly as some would like without imposing unacceptable impacts.

The Administration's position did not dissuade others from proposing very specific -- and in the eyes of some, very ambitious -- improvements to automobile and light-truck fuel economy. S. 279, reported from Committee in late April 1991, would have required each manufacturer to achieve a 20% improvement in passenger car and light truck fuel economy by 1996 and 40% by 2001 over its 1988 baseline. Analysis by some Federal agencies suggested that most of the improvement intended by the legislation could be achieved without further regulation if the market were prompting the manufacturers to downsize once more and utilize currently available technology. In contrast to the specific targets proposed by S. 279, S. 341 (later reported as S. 1220), a comprehensive energy bill, would have extended discretion to the Department of Transportation (DOT) to set "maximum feasible" CAFE targets for each manufacturer for Model Year (MY) 1996 and MY2002. An attempt during markup of S. 341/S. 1220 to set targets milder than those proposed in S. 279 was defeated. Senator Johnston intended to submit the same amendment for floor consideration when the bill came up for debate. On Nov. 1, 1991, however, a cloture vote on whether to proceed with consideration of S. 1220 was defeated. CAFE, because it became so divisive, was cited as one of the reasons for its defeat.

On Feb. 19, 1992, the Senate passed energy legislation (S. 2661) stripped of its CAFE provisions. Comprehensive energy legislation in the House (H.R. 776) cleared the Energy and Commerce Committee and passed the House May 27, 1992, with no CAFE provisions. There were no further attempts to restore CAFE provisions in the 102d Congress.

Previous experience with CAFE suggests that it is difficult to strictly regulate one's way to fuel economy in the absence of the appropriate market signals. For this reason, and to reduce risk to the domestic automotive industry, any aggressive escalation of CAFE requirements will probably need to carry a commitment to sustain gasoline prices at a level that will reinforce the objectives of the CAFE program.

LEGISLATION

S. 1220 (Johnston)
A comprehensive national energy policy bill. CAFE treated in Title III. Introduced June 5, 1991; referred to Committee on Energy and Natural Resources. Reported same day (S.Rept. 102-72). Withdrawn from floor debate in Senate Nov. 1, 1991.

Robert Bamberger

MLC-020

DOMESTIC COAL-USE ISSUES

...coal's future based on technology R&D...

Following the embargo of 1973, coal was touted as "America's Ace in the Hole." The United States possessed 500 years worth of coal resources at current consumption levels. Policymakers anticipated a greater role for coal in the U.S. fuel mix. Congress appropriated funding for R&D in coal gasification, liquefaction, and oil shale development.

The Reagan Administration, however, argued that the free market should decide what mix of fuel the Nation should use and sought to dismantle the legislative and regulatory infrastructure developed in the late-1970s to encourage greater coal use. Falling oil prices further discouraged fuel substitution.

The Bush Administration's National Energy Strategy (NES), released in February 1991, projects that coal consumption will increase from 19 quads today to 32 quads by 2030. However, as the source fuel for electricity generation, its share will decline from 55% to 50%, displaced by new nuclear capacity. The NES's goals for coal include (1) maintaining its competitiveness while meeting environmental, health, and safety requirements; and (2) creating a favorable export climate for U.S. coal and coal technology. To achieve these goals, the Bush Administration has proposed to promote technologies to mine and burn coal, clarify environmental requirements for coal-burning installations, accelerate coal-technology transfer, enhance coal's visibility, improve coordination among coal-regulating agencies, and facilitate financing for coal technology and export.

Amendments to the Clean Air Act enacted in the 101st Congress will challenge certain sectors of the coal mining industry. It is estimated that about 80% of

sulfur dioxide and 33% of nitrogen oxide emissions, precursors of acid precipitation, originate from coal-fired utilities. Because the new law extends to utilities the flexibility to achieve emissions standards however they choose, regional shifts from high-sulfur to low-sulfur coal producers could occur.

In the 102d Congress, omnibus energy legislation (P.L. 102-486, H.R. 776) reflects the importance attributed to a healthy mining industry, as well as the need for coal to compete freely with such fuels as natural gas in increasingly sophisticated and aggressive domestic and international energy markets. Unlike the late 1970s, when shifts to coal were simply mandated, coal policy has become increasingly directed to transforming coal into a cleaner and competitively priced product to maintain its market share, which is declining. Among the provisions affecting coal and the coal industry in the legislation are programs to stimulate research and development in coal-burning technologies, non-fuel use of coal, research on coal-fired locomotives, and coal-fuel mixtures. The law also contains provisions for the creation and operation of clearing houses for the exchange and dissemination of research results.

In late July, the progress of the energy legislation appeared threatened over the addition to the Senate version of a provision establishing an industry- wide tax on coal to finance health benefits for retired coal miners. A last- minute compromise was negotiated which provided several alternate mechanisms for financing the program, among them, diversion of up to $70 million annually from the Abandoned Mine Reclamation Fund. The House and Senate approved the conference report (H.Rept. 102-1018) on Oct. 5 and 8, 1992, respectively. The President signed the bill into law Oct. 24, 1992.

LEGISLATION

P.L. 102-486, H.R. 776

Comprehensive National Energy Policy Act. Title XIII provides for major research and development of coal technologies and technology transfer. Individual programs being considered include studying the potential enhancement of coal and technology exports, coal-fired diesel engines, clean coal (waste-to- energy) use, nonfuel use of coal, coal refining, coalbed methane recovery, and metallurgical coal development for boilers use. Other sections include pollution offset credits for the collection and marketing or destruction of coalbed methane, a potential greenhouse gas. Title XXV contains measures directly affecting the coal industry. Included among these are provisions establishing program guidelines for coal remining, Surface Mining Act implementation, Federal lignite coal royalties, and assistance to small coal operators. It further extends fee collection to sustain the Abandoned Mine Land Reclamation program from Sept. 30, 1995 to Sept. 30, 2004, and provides for a maximum of $70 million of the AML fund to be diverted to the Retired Miners Health Benefits Fund. Introduced Feb. 4, 1991; referred to Committee on Energy and Commerce. Subcommittee on Energy and Power approved Oct. 31, 1991. Passed House May 27, 1992. Passed Senate, amended, July 30, 1992. Conference report (102-1018) approved in House and Senate on Oct. 5 and Oct. 8, 1992, respectively. Signed into law Oct. 24, 1992.

Duane Thompson

MLC-021

ENERGY EFFICIENCY AND CONSERVATION

...P.L. 102-486 contains major efficiency provisions...

Energy is conserved when means are employed to improve efficiency or to reduce energy waste. The terms "conservation" and "efficiency" are often identified with technological changes that produce a constant level of output or services with less energy. In 1992 constant dollar terms, conservation research and development (R&D) funding declined from a peak of $632 million in FY1979 to a low of $179 million in FY1988 and then climbed steadily to $263 million in FY1992, a bit less than half the FY1979 peak. Also, appropriations bills passed during the 102d Congress created new energy efficiency and conservation programs at the Environmental Protection Agency, Agency for International Development, and multilateral banks, such as the World Bank. Rising R&D spending in real terms together with these new programs indicate that the 1980s decline in Federal support for energy conservation has ended and that a new pursuit of its potential may be emerging.

P.L. 102-381 enacts the FY1993 Interior conference committee mark for Department of Energy (DOE) energy conservation projects at $579 million, including $310 million for R&D and $265 million for Technical and Financial Assistance (TFA). This would amount to a 16% -- or $41 million -- real increase for R&D, and a 6% -- or $17 million -- cut for TFA, yielding a total real increase of 4%, or $24 million. Most of the increase for R&D, $25 million, is derived from increases for alternative (renewable) fuels ($10 million) and electric vehicles ($15 million).

P.L. 102-389, which includes the conference mark for the FY1993 EPA appropriation, allocates $2 million for foreign and domestic "green market" initiatives that would emphasize energy-efficient equipment. Also, P.L. 102- 391, the FY1993 Foreign Operations appropriation, includes, for the Agency for International Development (AID), $55 million for the Global Warming Initiative to reduce greenhouse gas

emissions and $10 million for the Committee on Renewable Energy Export and Trade's (CORECT's) export programs, including efficiency products. For the World Bank's Global Environment Facility, the mark is $50 million. Directives to support energy efficiency and least-cost planning are aimed at the multilateral development banks and at the economic development programs for Eastern Europe and the Commonwealth of Independent States (CIS).

Conservation legislation was more active than it has been in more than a decade, generating over 120 energy efficiency and energy conservation bills during the 102d Congress. (A compendium of these bills appears in CRS Reports 91-930 SPR and 92-463 SPR.)

The Comprehensive National Energy Policy Act, P.L. 102-486, contains several major energy efficiency provisions. Title IA requires that States consider voluntary residential building codes that meet or exceed the Council of American Building Officials (CABO) model energy code; mandates that States establish commercial building codes that meet or exceed American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE) energy standards; and mandates that DOE create standards for Federal buildings that meet or exceed CABO residential and ASHRAE commercial standards.

Title IB directs State regulators to allow electric rates that would make investments in efficiency and conservation at least as profitable as investments in new generation and transmission, and would make investments in generation efficiency likewise profitable relative to investment in new generation. Also, it directs the Tennessee Valley Authority to employ a "least- cost" planning program, directs gas utilities and the Western Area Power Administration to implement integrated resource planning, and eliminates the income tax on utility conservation subsidies to residential customers.

Title IC specifies efficiency standards for electric motors and other commercial and industrial equipment such as furnaces, boilers, and air conditioners. Standards are also set for lamps and plumbing products. DOE is directed to create a voluntary energy ratings and labeling program for windows and window systems. Title IF expands the Federal energy management program to include guidelines that encourage the procurement of energy efficient products and that assess energy use in Federal facilities, to revise energy performance contracting requirements, and to establish audit teams and training. (For further information, see CRS Issue Brief 85130, *Energy Conservation: Technical Efficiency and Program Effectiveness.*)

LEGISLATION

P.L. 102-90, H.R. 2506
Legislative Branch Appropriations, FY1992. Allocates $1 million for new program to retrofit Capitol buildings with energy efficient devices. Reported (H.Rept. 102-81, p. 24) May 30. Passed House June 5. Reported (S.Rept. 102- 81) June 12. Conference committee reported (H.Rept. 102-176) July 30. Signed into law Aug. 14, 1991.

P.L. 102-139, H.R. 2519
Department of Veterans Affairs, HUD, and Independent Agencies. Appropriations for the Environmental Protection Agency under R&D and abatement programs include several million dollars for fuel cells, global warming mitigation options, and renewable energy projects. Reported (H.Rept. 102-94) June 3, 1991. Passed House June 6. Reported (S.Rept. 102-107) July 11. Passed Senate July 18. Conference Committee reported (H.Rept. 102-226) Sept. 27. Signed into law Oct. 28, 1991.

P.L. 102-154, H.R. 2686
Department of Interior and Related Agencies Appropriations Bill, 1992. Makes appropriations for energy efficiency and energy conservation programs at DOE. Reported (H.Rept. 102-116) June 19, 1991. Passed House June 25. Reported to Senate (S.Rept. 102-122) July 25. Passed Senate Sept. 19. Conference Committee reported (H.Rept. 102-256) Oct. 17. Signed into law Nov. 14, 1991.

P.L. 102-163, H.R. 2621
Foreign Operations, Export Financing, and Related Programs Appropriations Act, FY1991. Continues $20 million program for energy efficiency and renewable energy projects at AID and other energy efficiency policies at international lending agencies. Reported (H.Rept. 102-108) June 12, 1991. Passed House June 19. Appropriations for this area are covered through March 1992 under a formula in the continuing resolution (P.L. 102-163; H.J.Res. 374) calling for the lower of the FY1991 law (P.L. 101-513) and the FY1992 House-passed (H.R. 2621) level. Continuing resolution supersedes earlier extensions, H.J.Res. 332 (H.Rept. 102-216) and H.J.Res. 360 (H.Rept. 102-266). Continuing resolution (H.J.Res. 374) passed House Nov. 12, and passed Senate Nov. 13, 1991. Signed into law Nov. 15, 1991.

P.L. 102-240, H.R. 2950
Intermodal Surface Transportation Efficiency Act. Contains several measures that would conserve energy, including support for advanced rail transit such as a magnetic levitation prototype development program, high speed rail corridor purchase, as well as intelligent vehicle highway systems and electric vehicle R&D. Also supports congestion mitigation projects and construction of pedestrian walkways and bicycle transportation facilities. Introduced July 18, 1991; referred to Committee on Public Works and Transportation. Reported (H.Rept. 102-171, parts 1 and 2) July 26 and Aug. 2. Passed House, amended, Oct. 23. Passed Senate, amended, Oct. 31. Conference Committee reported (H. Rept. 102-404) Nov. 27. Signed into law Dec. 18, 1991.

P.L. 102-381, H.R. 5503

Department of Interior and Related Agencies Appropriation Bill, 1993. Makes appropriations for energy efficiency and energy conservation programs at DOE. Reported (H.Rept. 102-626) June 29, 1992. Passed House, amended, July 23. Reported (S.Rept. 102-345) July 29. Passed Senate, amended, Aug. 6. Conference report (H.Rept. 102-901) filed in House Sept. 24. Signed into law Oct. 5, 1992.

P.L. 102-389, H.R. 5679

Department of Veterans, HUD, and Independent Agencies Appropriations for FY1993. Appropriations for EPA include funding for energy efficiency programs. Reported (H.Rept. 102-710) July 23, 1992. Passed House July 29. Reported in Senate (S. Rept. 102-356) Aug. 3. Passed Senate, amended, Sept. 9. Conference report (H.Rept. 102-902) filed in House Sept. 24. Signed into law Oct. 6, 1992.

P.L. 102-391, H.R. 5368

Foreign Operations, Export Financing, and Related Programs Appropriations Act, FY1993. For the World Bank's Global Environment Facility, the mark is $50 million. This section also directs that each multilateral development bank (MDB) be encouraged to meet certain benchmarks for sustainable energy development. One benchmark directs that all energy loans should be based on or support least-cost integrated resource plans, including analysis of renewable energy, energy efficiency, and quantifiable environmental costs. A second benchmark directs that a substantial portion of industry and transportation loans go to energy efficiency and renewables. A third benchmark calls for the establishment of energy efficiency and renewable energy staff positions at the managerial level in each MDB. Also, the conference report directs support for a program of sustainable economic development in Eastern Europe and the Commonwealth of Independent States (CIS), including an emphasis on the use of energy efficiency and energy conservation and the valuation of environmental resources in national income accounts. Reported (H.Rept. 102-585) June 18, 1992. Passed House, amended, June 25. Reported in Senate (S.Rept. 102-419) Sept. 23. Passed Senate, amended, Oct. 1. Conference report (H.Rept. 102-1011) filed Oct. 4. Signed into law Oct. 7, 1992.

P.L. 102-486, H.R. 776

Energy Policy Act. Establishes various standards, ratings, labeling, and information requirements for energy conservation. Also requires improved Federal energy management and utility profitability from conservation investments, and creates other conservation policies. Introduced Feb. 4, 1991; referred to Committee on Energy and Commerce. Subcommittee on Energy and Power held hearing May 29. Amended and reported by subcommittee with new title Oct. 31, 1991. Full committee reported (H.Rept. 102-474, part 1) Mar. 30, 1992. Referred to numerous other committees (H.Rept. 102-474, parts 2-9). Passed House, amended, May 27. Senate Finance Committee amended revenue provisions, Title XIX (S.Prt. 102-95), June 18. The bill was brought to Senate floor July 29, whereupon all House text was struck and S. 2166 and the revenue title approved by the Finance Committee were inserted as an amendment in the nature of a substitute. Additional amendments were approved, and the bill passed (93-3) July 30. Conference report (H.Rept. 102-1018) filed in House Oct. 5. Approved by House Oct. 5. Approved by Senate Oct. 8, 1992. Signed into law Oct. 24, 1992.

Fred J. Sissine

MLC-022

ENERGY POLICY

...broad-ranging bill enacted...

A broad range of energy options, including reformulated and alternative fuels for automobiles, energy conservation, fuel economy standards, gas and oil tax options, nuclear power, natural gas, expansion of the Strategic Petroleum Reserve, and development of the Arctic National Wildlife Refuge (ANWR), emerged with new vigor in the 102d Congress following the Persian Gulf crisis.

The thrust of some proposals was to balance initiatives that promote production of energy with others that further conservation and efficiency. This was especially reflected in two of the most contentious issues: whether to authorize development of ANWR and whether to raise the Corporate Average Fuel Economy (CAFE) standards. Both these proposals proved too controversial, and energy policy legislation without them passed the Senate (S. 2166, passed Feb. 19, 1992) and the House (H.R. 776, passed May 27, 1992).

Provisions in S. 2166 amended the Public Utility Holding Company Act aimed at increasing competition in the electric utility industry. The bill streamlined the licensing procedure for nuclear plants and natural gas pipelines. It encouraged the use of alternative motor fuels and supported energy efficiency and renewables. H.R. 776 contained many similar provisions.

The most controversial differences between the two bills were a House provision restricting oil and gas leasing in the Outer Continental Shelf (OCS), some tax credits in the House version but not the Senate bill, a House restriction on State regulation of the marketing of natural gas, and another House restriction on licensing of hydropower facilities. Also included in the House bill was a provision allowing DOE to study Yucca Mountain, Nevada, as a potential nuclear waste site without obtaining State permits.

The conference report that emerged in the last days of the second session dropped most of the controversial measures. The original nuclear waste provision was dropped, but another added which stimulated a Nevada Senate filibuster. A cloture vote was necessary before the bill, already passed by the House before it adjourned, passed the Senate by a large margin. President Bush signed the measure into law Oct. 24, 1992 (P.L. 102-486).

The new law includes provisions to reform electricity regulation; expand and ease use of the Strategic Petroleum Reserve; promote alternative fuels to replace petroleum-based motor fuels; promote energy efficiency in building codes, Federal energy use, electric utilities, and industrial energy use; promote and give tax incentives to renewable energy sources; and streamline nuclear power licensing, facilitate the nuclear waste program, and create a government-owned uranium enrichment corporation.

The law also authorizes R&D programs for a broad range of energy technologies, including renewable energy, natural gas, enhanced oil recovery, energy efficiency, advanced nuclear reactors, electrically powered vehicles, and coal. Other coal-related measures concern coal-bed methane utilization and the 1977 Surface Mining Control and Reclamation Act. Dropped from the bill in conference were the OCS leasing ban and virtually all measures concerning natural gas.

LEGISLATION

P.L. 102-486, H.R. 776

As approved by Subcommittee, the Comprehensive National Energy Policy Act. Introduced Feb. 4, 1991; referred to Committee on Energy and Commerce. Passed House, amended, May 27, 1992. Passed Senate, amended, July 30, 1992. Signed into law Oct. 24, 1992.

Robert Bamberger and Carl Behrens

MLC-023

MAGNETIC FUSION ENERGY

...$339 million for fusion energy research in FY1993...

For 40 years, the United States has been trying to harness the energy source of the hydrogen bomb to produce electricity. Controlling thermonuclear fusion, the nuclear reaction that powers the sun, requires confining and heating deuterium and tritium nuclei to the point where they will collide (a D- T reaction) producing nuclear energy in a sustained, regulated way. There are two paths being pursued toward this goal. The first, called magnetic fusion energy (MFE), is to use very strong magnetic fields to confine a deuterium and tritium plasma while heating it to fusion temperatures. The second is to rapidly compress a very small assembly of these nuclei with an intense laser or particle beam.

The potential benefits from fusion are enormous. The fuel resources are vast, although tritium, which does not occur naturally, has to be produced from the element lithium. If a more difficult form of fusion power production involving deuterium alone (a D-D reaction) can be attained, fuel resources would be nearly inexhaustible. Radioactive waste would be generated from a D-T reaction, but the long-term buildup would be orders of magnitude less than that of a fission reactor of comparable power. Other, more complex and difficult fusion reactions are possible that would produce no radioactive byproducts.

Over the years there have been several experimental fusion devices, the most successful of which is known as the Tokamak (a Russian acronym). The largest Tokamaks, which are in the United States (called the TFTR) and the European Community, have nearly achieved the first major milestone of fusion research, energy break-even. The next major milestone is a machine to operate at a significant power gain and to test the engineering requirements of a fusion power reactor. Currently a conceptual design for such a device has been completed by an international consortium of the United States, the European Community, Japan, and Russia. This machine, known as the International Thermonuclear Experimental Reactor (ITER), is currently expected to cost $4.9 billion and could be operating by 2005. An agreement between the four partners to carry out a 6-year engineering design of ITER has just been signed.

Congress appropriated $337 million for fusion energy research in FY1992. For FY1993, the Department of Energy (DOE) requested $359 million. Reflecting budget pressures, Congress appropriated $339 million for FY1993. Congress directed DOE to give highest priority to ITER and a D-T experiment in TFTR, and to begin design work on a steady state advanced tokamak. While DOE is maintaining its goal of achieving a demonstration power reactor by 2025, resource limits are casting growing doubt on its ability to do so. (For further information, see CRS Issue Brief 91039, *Magnetic Fusion Energy*, by Richard E. Rowberg.)

LEGISLATION

P.L. 102-377, H.R. 5373

Energy and Water Development Appropriations Act, 1993. Recommends appropriations of $339 million for fusion energy research for FY1993. Reported to House by Committee on Appropriations (H.Rept. 102-555) June 11, 1992. Passed House June 17, 1992. Reported to Senate by Committee on Appropriations (S.Rept. 102-344) July 27, 1992. Passed Senate Aug. 3, 1992. Conference report (H.Rept. 102-866) agreed to by House Sept. 17, 1992, and by Senate Sept. 24, 1992. Signed into law Oct. 2, 1992.

P.L. 102-486, H.R. 776

Comprehensive National Energy Policy Act. Provides for means to reduce the Nation's dependence on foreign oil, for the energy security of the Nation, and for other purposes. Title XXI, Subtitle B, Section 2115, requires the Secretary of

Energy to carry out a research and development program on fusion technologies, calling for "verification of the practicability of commercial electric power production" by 2010. Authorizes $339.7 million for FY1993, and $380 million for FY1994. Passed House May 27, 1992, by a vote of 381 to 37. Passed Senate, amended, July 30, 1992, by a vote of 93-3. Conference report (H.Rept. 102-1018) agreed to by House Oct. 5, 1992, and by Senate Oct. 8, 1992. Signed into law Oct. 24, 1992.

Richard E. Rowberg

MLC-024

NATURAL GAS: STREAMLINE THE REGULATORY PROCESS?

...many gas provisions dropped...

Early proposals in the 102d Congress addressed an oversupply of deliverable gas and the low prices accompanying it. Prices had dropped as low as $1.00 per 1000 cubic feet (mcf), the equivalent of $6.00-a-barrel crude oil in a $20-per- barrel energy price environment.

Gas demand had never recovered to 1973 levels despite a decade of declining prices and increasing supply. Initial House and Senate bills concerned themselves with removing barriers to gas consumption. Geographic centers of incremental gas demand had relocated and pipeline construction had not followed. Legislation later passed by both Houses (H.R. 776 and S. 2166) addressed capacity bottlenecks by making it easier to build new facilities. The bills proposed to mitigate perceived regulatory barriers by:

-- eliminating regulatory delay in issuing construction certificates by limiting the amount of time allowed for rehearings on certificates already granted;

-- speeding environmental review by allowing the environmental impact work to be done by outside consultants; and

-- providing options for expedited construction of facilities and deregulated pipeline rates for projects constructed where all the parties to the project have freely negotiated tariffs on their own.

H.R. 776 also contained two measures not included in S. 2166. The most controversial was language prohibiting States from limiting production to stabilize prices in oversupplied markets. This was a response to efforts by Oklahoma and Texas to institute stricter prorationing to prevent in- State supply gluts. The second measure was language deregulating gas imports. This was a House response to a nearly successful Senate attempt to limit Canadian imports in order to protect domestic producers.

While both bills passed their respective Houses and went to conference, two events occurred that caused the conferees to abandon much of the gas language in both H.R. 776 and S. 2166. First, the price of gas began to rise. Starting in early summer, prices rose steadily. Later, Hurricane Andrew damaged production facilities in the Gulf of Mexico, causing some temporary loss of production. Prices rose quite sharply, with spot transactions subsequently reaching the $3.00/mcf range. This put price concerns -- at least temporarily - - on hold.

Second, the Federal Energy Regulatory Commission (FERC) issued far- reaching Order 636, which mandates massive restructuring of the pipeline industry. Since Order 636 was completed by conference time, enough uncertainty existed regarding the new regulation's implementation and interaction with market forces to quash interest in another layer of regulatory change.

Thus, the only gas provision in the final bill was the language assuring that gas imports remain unregulated. Natural gas will remain an issue for the next Congress, but the first step, instead of legislation, will probably be directed to investigating the impacts of FERC's Order 636. (See CRS Issue Brief 91138, *Natural Gas Legislation*.)

LEGISLATION

P.L. 102-486, H.R. 776

As approved by Subcommittee, the Comprehensive National Energy Policy Act. Introduced Feb. 4, 1991; referred to Committee on Energy and Commerce. Passed House, amended, May 27, 1992. Passed Senate, amended, July 30, 1992. Signed into law Oct. 24, 1992.

Larry Kumins

MLC-025

NUCLEAR ENERGY

...new energy legislation affects licensing, waste disposal...

H.R. 776, the comprehensive energy bill enacted into law Oct. 24, 1992 (P.L. 102-486), contains a number of provisions to encourage construction of new commercial nuclear reactors, a key element in the Administration's National Energy Strategy (NES). Major nuclear sections of the legislation simplify reactor licensing, set goals for developing improved reactor designs, restructure the Government's uranium enrichment service, and remove potential regulatory obstacles to a national nuclear waste disposal site.

To the nuclear industry and its supporters, the nuclear provisions of the new energy legislation are seen

as removing unnecessary hurdles in the path of improved nuclear power plants that would be safer, simpler, and cheaper to build and operate than today's. To nuclear power opponents, the legislation represents another attempt by the Federal Government to prop up a dangerous, environmentally unsound technology that has proved to be an economic failure.

Even with enactment of the energy bill, the future of nuclear power in the United States is uncertain. Total U.S. nuclear power generation grew steadily during the past three decades as reactors ordered during the early commercialization of nuclear technology began operating, but few are still under construction. Rising costs, lower-than-expected electricity demand, and other concerns led to the cancellation of more than 100 reactors during the past two decades, including every reactor ordered since 1973. No commercial U.S. orders have taken place since 1978.

The nuclear industry's biggest complaint has long been the nuclear power plant licensing process. The Nuclear Regulatory Commission (NRC) has tried to speed up reactor licensing with a controversial new "one-step" licensing process designed to settle most licensing issues before construction begins and to allow a completed plant to operate with a minimum of further litigation. Nuclear opponents fought NRC's new rules in court as a violation of the Atomic Energy Act, but the new energy legislation amends the Act to specifically authorize the one-step licensing process and restrict the opportunity for opponents to block the operation of a newly constructed nuclear reactor.

Another element of the Administration's nuclear power strategy is the deployment of a nuclear waste disposal system. DOE collects a fee from nuclear utilities to develop disposal facilities, expected to consist of a permanent underground repository and an interim "monitored retrievable storage" (MRS) facility. By law, DOE is limited to studying Nevada's Yucca Mountain as the repository site, which is vehemently opposed by the State as unsafe. The repository cannot operate without a license from NRC, which must ensure that the facility meets general standards issued by the Environmental Protection Agency (EPA). General repository standards currently under development by EPA have been criticized by DOE, NRC, and others for potentially imposing unrealistic requirements at Yucca Mountain. The energy legislation attempts to remove that regulatory obstacle by requiring EPA to develop standards specific to Yucca Mountain, based on a study by the National Academy of Sciences. (See CRS Issue Brief 92059, *Civilian Nuclear Waste Disposal.*)

Enrichment of natural uranium is an essential step to provide fuel for nuclear reactors. The Department of Energy's Uranium Enrichment Enterprise (UEE) provides most of the enrichment services required by the U.S. commercial nuclear power industry. Once a monopoly, the UEE is losing its competitiveness in the world market. The new energy legislation restructures the UEE into what is hoped will be a profit-maximizing and internationally competitive Government corporation. The corporation, which could be privatized after 2 years, is to lease DOE's currently operating enrichment plants and will be the sole marketer of their output. Nuclear utilities are to pay $150 million per year for 15 years, adjusted annually for inflation, to help pay for decontamination and decommissioning of DOE's uranium enrichment plants. (See CRS Issue Brief 90151, *Uranium Enrichment Issues.*)

The energy legislation also sets goals for the commercialization of improved reactor technology. Key goals for DOE include achieving NRC design certification by the end of FY1996 of improved versions of today's nuclear power plants, and a recommendation by the end of FY1998 on whether to construct one or more prototypes of other advanced reactor technologies.

The Administration's NES projects that U.S. nuclear power production will grow substantially as a result of actions taken by the energy legislation. However, because the reactor construction pipeline is virtually empty, no new reactors are likely before the turn of the century. The NES projects only a small number of plants coming on line through 2010, and then much larger numbers after the initial plants of the new generation have proven themselves. Nuclear opponents scoff at that scenario, contending that the public will never accept significant numbers of new reactors.

LEGISLATION

P.L. 102-486, H.R. 776

Comprehensive National Energy Policy Act. Restructures DOE's uranium enrichment program as a Government corporation and allows for eventual privatization. Nuclear utilities must contribute to a fund for decontamination and decommissioning DOE's existing uranium enrichment plants. On the nuclear waste issue, requires EPA to issue special environmental standards for DOE's Yucca Mountain repository. Establishes one-step licensing procedures for nuclear power plants. Overturns NRC's policy on radioactive waste that is "below regulatory concern." Introduced Feb. 4, 1991; referred to Committee on Energy and Commerce. Sequentially referred to more than one committee. Passed House, 381-37, May 27, 1992. Passed Senate, with provisions of S. 2166, July 30, 1992, by a vote of 93- 30. Conference report passed House Oct. 5, 1992, 363-60; passed Senate Oct. 8, 1992, by voice vote. Signed into law Oct. 24, 1992.

Mark Holt and Marc Humphries

MLC-026

THE PUBLIC UTILITIES HOLDING COMPANY ACT OF 1935

...changes in electric utility industry stimulated calls for reform...

The Public Utilities Holding Company Act of 1935 (PUHCA) was enacted to eliminate unfair practices and other abuses by electricity and gas holding companies by requiring Federal control and regulation of interstate public utility holding companies. Prior to PUHCA, electricity holding companies were characterized as having excessive consumer rates, high debt-to-equity ratios, and increasingly unreliable service. A holding company under PUHCA is an enterprise that directly or indirectly owns 10% or more of stock in a public utility company.

The primary issue driving PUHCA reform was the desire to increase competition in the electric generating sector through independent power producers (IPPs), sometimes called non-utility generators (NUGs). There has been no legal definition of an IPP, but it generally has meant a facility that generates electricity for sale at wholesale and lacks significant market share. Currently, NUGs and IPPs account for approximately 6% of U.S. generating capacity.

PUHCA was designed to limit interstate activity of holding companies. However, current technologies make possible economic regional interties and power transfers; in fact, such arrangements are routine today. The 102d Congress enacted legislation that reforms PUHCA (P.L. 102-486, H.R. 776). During debate, proponents of IPPs claimed that the threat of PUHCA regulation discouraged the development of IPPs, distorted the corporate structure of those IPPs that do exist, and discouraged competition. Opponents of PUHCA reform argued that because of generating entities that would be exempt from PUHCA-related jurisdiction of the Securities and Exchange Commission and could be multi-State companies, State Public Utility Commissions could have difficulty regulating holding company operations and maintaining the balance between Federal and State jurisdiction. Opposition to amending PUHCA diminished significantly as debate over comprehensive energy legislation proceeded. The most contentious issue was transmission access.

S. 2166, The National Energy Security Act of 1992, was passed by the Senate on Feb. 19, 1992. With the exception of amendments offered during debate, the PUHCA provisions in this bill were identical to those in S. 1220, which was withdrawn from floor consideration on Nov. 1, 1991. H.R. 776 was introduced on Feb. 4, 1991, and passed May 27, 1992. Conferees reconciled the two bills in early October, and the President signed the legislation Oct. 24, 1992.

Both bills set up a new class of electricity producers that would be exempt from the provisions of PUHCA. Under H.R. 776 these generators were defined as independent power producers, and under S. 2166 they were called Exempt Wholesale Power Producers (EWGs). Significant differences between the two bills included:

-- H.R. 776 required FERC to promulgate rules to define an IPP and required IPPs to apply to the FERC for such a designation. S. 2166 defined EWGs essentially as a person who sells power from an eligible facility. The Senate language was adopted in conference and the final bill designates this new category of generators as EWGs. EWGs must apply to FERC for such a designation.

-- H.R. 776 banned self-dealing (transactions between utilities and their unregulated affiliates) while S. 2166 allowed self-dealing when all affected State utility commissions agree, in advance, that such transactions are in consumers' best interest. The Senate version prevailed in conference.

-- H.R. 776 had provisions on mandatory transmission access. No equivalent provisions existed in S. 2166. Provisions on mandatory transmission access were included in the final bill. The Senate conferees required that language be included that sets guidelines for FERC to determine transmission pricing.

LEGISLATION

P.L. 102-486, H.R. 776

See above. Introduced Feb. 4, 1991; referred to Committee on Energy and Commerce. Passed House May 27, 1992. Passed Senate, amended, July 30, 1992. Conference report agreed to by House Oct. 5, 1992; by Senate Oct. 8, 1992. Signed into law Oct. 24, 1992.

Amy Abel

MLC-027

RENEWABLE ENERGY

...P.L. 102-486 creates tax credits...

Renewable energy comes from solar, wind, and other sources. It supplies about 8% of national energy demand, and the Department of Energy (DOE) projects that advanced technologies capturing renewable energy may supply a much larger share in the long term. The Federal renewable energy program includes research and development (R&D) funding, tax credits, and a regulatory framework that ensures utility purchases of electricity from independent renewable power producers. In constant dollar terms, DOE R&D funding declined 91%, from a peak of $1.27 billion in

FY1979 to a low of $119 million in FY1990. Real spending rose to $163 million in FY1991 and climbed again to $204 million for FY1992, but this remains 84% below the FY1979 peak.

P.L. 102-377, which reflects the conference agreement for energy and water appropriations, allocates $205 million in constant 1992 dollars for DOE renewable energy R&D programs, representing a $1 million real increase over the FY1992 level. The biofuels program is slated for the largest increase, $7.6 million, while photovoltaics increases by $3 million and wind energy by $1.8 million. In contrast, the conference agreement cut solar thermal by $3 million.

Other appropriations bills passed during the 102d Congress create new renewable energy programs at the Environmental Protection Agency (EPA), Agency for International Development (AID), and the World Bank. Rising R&D spending in real terms together with these new programs indicate that the 1980s decline in support for renewables has ended and that a new commitment may be emerging.

P.L. 102-389, which includes the conference mark for the FY1993 EPA appropriation, allocates $600,000 for an alternative fuels demonstration project, $750,000 for methane energy and agricultural development, and funding for "green market incentives" and global warming mitigation that may include support for renewable energy equipment. Also, P.L. 102-391, the FY1993 mark for the Foreign Operations appropriation, allocates for the Agency for International Development $55 million for the Global Warming Initiative to reduce greenhouse gas emissions and $10 million for renewable energy export programs. For the World Bank's Global Environment Facility, the mark is $50 million. Directives to support renewable energy are aimed at the multilateral development banks and at the economic development programs for Eastern Europe and the Commonwealth of Independent States (CIS).

Renewable energy legislative activity has reached its highest level in nearly a decade, generating over 75 bills with renewable energy provisions during the 102d Congress. (A compendium of these bills appears in CRS Reports 91-931 SPR and 92-463 SPR.) The Energy Policy Act, P.L. 102-486, contains a number of provisions for renewable energy. Section 1916 creates a permanent extension of the 10% business energy investment tax credit for solar and geothermal equipment, retroactive to June 30, 1992. Section 1914 creates an income tax credit for wind energy and closed-loop biomass equipment worth up to 1.5 cents/kilowatt-hour (kwh) over a 10-year period, proportional to the amount of electric energy production. Similarly, Section 1212 creates a 1.5 cents/kwh payment over a 10-year period for electric energy production from solar, wind, biomass, and geothermal facilities. However, the payment is restricted to organizations not eligible for the production tax credit, such as facilities owned by State or local governments or publicly-owned utilities, and the availability of appropriations. Section 722 expands the ability for independent power producers and qualifying facilities to request transmission access for wheeling power. Other provisions of P.L. 102-486 set renewable energy production goals, authorize accelerated R&D spending, identify joint venture projects, and expand export promotion efforts.

LEGISLATION

P.L. 102-46, S. 258

Corrects technical error in the Solar, Wind, Waste, and Geothermal Power Production Incentives Act of 1990 (P.L. 101-575). Introduced Jan. 23, 1991; referred to Committee on Energy and Natural Resources. Reported (S.Rept. 102- 11) Feb. 7. Passed Senate Apr. 11. Passed House Apr. 30. Signed into law May 17, 1991.

P.L. 102-104, H.R. 2427

Energy and Water Development Appropriations Bill, FY1992. Makes appropriations for renewable energy research and development programs at DOE. Reported (H.Rept. 102-75) May 22, 1991. Passed House May 29, 1991. Reported (S.Rept. 102-80) June 12. Passed Senate July 10, 1991. Conference Committee reported (H.Rept. 102-177) July 30. Signed into law Aug. 17, 1991.

P.L. 102-139, H.R. 2519

Department of Veterans Affairs, HUD, and Independent Agencies. Appropriations for the Environmental Protection Agency under R&D and abatement programs include several million dollars for fuel cells, global warming mitigation options, and renewable energy projects. Reported (H.Rept. 102-94) June 3, 1991. Passed House June 6. Reported (S.Rept. 102-107) July 11. Passed Senate July 18. Conference Committee reported (H.Rept. 102-226) Sept. 27. Signed into law Oct. 28, 1991.

P.L. 102-163, H.R. 2621

Foreign Operations, Export Financing, and Related Programs Appropriations Act, FY1991. Continues $20 million program for energy efficiency and renewable energy projects at AID and other energy efficiency policies at international lending agencies. Reported (H.Rept. 102-108) June 12, 1991. Passed House June 19. Appropriations for this area are covered through March 1992 under a formula in the continuing resolution (P.L. 102-163; H.J.Res. 374) calling for the lower of the FY1991 law (P.L. 101-513) and the FY1992 House-passed (H.R. 2621) level. The continuing resolution supersedes earlier extensions H.J.Res. 332 (H.Rept. 102-216) and H.J.Res. 360 (H.Rept. 102-266). H.J.Res. 374 passed House Nov. 12; and passed Senate Nov. 13. Signed into law Nov. 15, 1991.

P.L. 102-227, H.R. 3909

Tax Extension Act of 1991. Section 106 extends the investment tax credits for solar and geothermal equipment through

June 30, 1992. Reported Nov. 25, 1991, by Committee on Ways and Means. Passed House and Senate Nov. 27. Signed into law Dec. 11, 1991.

P.L. 102-240, H.R. 2950

Intermodal Surface Transportation Efficiency Act. Title VI on Research, Part C, on Advanced Transportation Systems allows grants to consortia for R&D on alternative fuels buses and other systems. Introduced July 18, 1991; referred to Committee on Public Works and Transportation. Reported (H.Rept. 102- 171, parts 1 and 2) July 26 and Aug. 2. Passed House, amended, Oct. 23. Passed Senate, amended, Oct. 31. Conference Committee reported (H.Rept. 102- 404) Nov. 27. Signed into law Dec. 18, 1991.

P.L. 102-377, H.R. 5373

Energy and Water Development Appropriation Bill, 1993. Makes appropriations for renewable energy R&D programs at DOE. Reported (H.Rept. 102- 555) June 11, 1992. Passed House, amended, June 17. Reported in Senate (S.Rept. 102-344) July 27. Passed Senate, amended, Aug. 3. Conference report (H.Rept. 102-866) filed in House Sept. 15. Passed House and Senate Sept. 24. Signed into law Oct. 2, 1992.

P.L. 102-389, H.R. 5679

Department of Veterans, HUD, and Independent Agencies Appropriations for FY1993. Directs EPA to prepare a feasibility study for a national laboratory for research on alternative energy sources. Allocates $600,000 for an alternative fuels demonstration project in the South Coast Air Quality Management District, $750,000 for the methane energy and agriculture development program, and $2 million for "green" programs in EPA's Global Change Program that could include renewables. Reported (H.Rept. 102-710) July 23, 1992. Passed House July 29. Reported in Senate (S.Rept. 102-356) Aug. 3. Passed Senate, amended, Sept. 9. Conference report (H.Rept. 102-902) filed in House Sept. 24. Signed into law Oct. 6, 1992.

P.L. 102-391, H.R. 5368

Foreign Operations, Export Financing, and Related Programs Appropriations Act, FY1993. Section 532 allocates to the Agency for International Development (AID): $55 million for the Global Warming Initiative to reduce greenhouse gas emissions; $10 million for renewable energy export programs; and $1 million for renewable energy technology transfer. For AID's replicable renewable energy projects, the conference mark is $15 million. For the World Bank's Global Environment Facility, the mark is $50 million. This section also directs that each multilateral development bank (MDB) be encouraged to meet certain benchmarks for sustainable energy development. One benchmark directs that all energy loans should be based on or support least-cost integrated resource plans, including analysis of renewable energy, energy efficiency, and quantifiable environmental costs. A second benchmark directs that a substantial portion of industry and transportation loans go to energy efficiency and renewables. A third benchmark calls for the establishment of energy efficiency and renewables staff positions at the managerial level in each MDB. Also, the conference report directs support for a program of sustainable economic development in Eastern Europe and the CIS, including an emphasis on the use of energy efficiency and energy conservation and the valuation of environmental resources in national income accounts. Reported (H.Rept. 102-585) June 18, 1992. Passed House, amended, June 25. Reported in Senate (S.Rept. 102-419) Sept. 23. Passed Senate, amended, Oct. 1. Conference report (H.Rept. 102-1011) filed Oct. 4. Signed into law Oct. 7, 1992.

P.L. 102-486, H.R. 776

Energy Policy Act. Creates important tax and regulatory incentives for renewable energy electric power production. Titles III, IV, and V direct procurement, incentives, loans, and information programs for alternative fuels. Introduced Feb. 4, 1991; referred to Committee on Energy and Commerce. Energy and Power Subcommittee held hearing on May 29. Subcommittee amended and reported (committee print) with new title Oct. 31, 1991. Full committee reported (H.Rept. 102-474, part 1) Mar. 30, 1992. Referred to numerous other committees (H.Rept. 102-474, parts 2-9). Passed House, amended, May 27. Senate Finance Committee amended revenue provisions, Title XIX (S.Prt. 102-95), June 18. The bill was brought to Senate floor July 29, whereupon all House language was struck and S. 2166 and the revenue title approved by the Finance Committee were inserted as an amendment in the nature of a substitute. Additional amendments were approved, and the bill passed (93-3) July 30. Conference report (H.Rept. 102-1018) filed in House Oct. 5. House approved Oct. 5. Senate approved Oct. 8, 1992. Signed into law Oct. 24, 1992.

Fred J. Sissine

ENVIRONMENTAL PROTECTION

MLC-028

THE ENVIRONMENTAL PROTECTION AGENCY: CABINET-LEVEL STATUS?

...legislators do not reach consensus...

The 102d Congress considered legislation to elevate the Environmental Protection Agency (EPA) to Cabinet-level status. Three bills were introduced (H.R. 67, H.R. 3121, and S. 533). The Senate passed S. 533 on Oct. 1, 1991. The House did not pass a bill, though it did so in the 101st Congress. There is considerable support for such legislation; a number of particular issues remain contentious, however.

Key reasons cited by proponents of a Cabinet-level department include enhancing EPA's visibility and stature, fostering closer and continuing contact with the President, and achieving more equitable relations with other executive departments and foreign governments.

Some former EPA administrators and environmental groups favor the idea. Little formal opposition to the concept has emerged, but one reason cited for not forming an environmental department is that EPA already has a high priority with the public and the President and is highly regarded by foreign environmental ministries. From an organizational viewpoint, some question whether it is sound to have an additional Cabinet Officer reporting directly to the President and oppose creation of another layer of bureaucracy.

Deliberations on elevating EPA's status also raise the issue of whether or not to reorganize the Agency or expand its role to include functions currently performed by other departments. Provisions that suggested reorganization beyond EPA's jurisdiction and the formation of an independent Bureau of Environmental Statistics met considerable resistance in the 101st Congress. Legislation in the 102d Congress limited its focus to current EPA functions and administration.

On Nov. 21, 1991, the Administration declared its support for a "clean" (House) bill simply elevating EPA to department status; key House supporters and environmental groups at a press conference the same day urged quick House action on such a bill. However, the Chairman of the House Government Operations Committee, in a press release later that day, announced that he did not support this simple elevation concept or the Senate-passed bill, and would seek a bill including a Bureau of Environmental Statistics. House action on the Department of Environment concept was hampered partly because the composition of such a department appeared to be unresolved.

LEGISLATION

S. 533 (Glenn)

Establishes the Department of the Environment (USDE), with a Bureau of Environmental Statistics that would compile and analyze environmental data, but not collect new data. Establishes a Presidential Commission on Improving Environmental Protection aimed at improving management and implementation of environmental laws and programs within the jurisdiction of the Department; limits the number of deputy assistant secretary positions that may be filled by political appointees. Urges the Secretary of State to convene international conferences to encourage information exchange on energy efficiency and environmentally sound renewable energy resources. Introduced Feb. 28, 1991; referred to Committee on Governmental Affairs. Reported with an amendment in the nature of a substitute July 13, 1991 (S.Rept. 102-82). Passed Senate with an amendment by voice vote Oct. 1, 1991.

Mary E. Tiemann and Martin R. Lee

MLC-029

FEDERAL FACILITY ENVIRONMENTAL PROBLEMS

...new law toughens enforcement...

Despite a consensus that federally owned or operated facilities should be held to the same environmental standards as other entities, compliance with hazardous waste laws by the key Federal agencies involved, the Departments of Energy (DOE) and Defense, has not kept pace. In part, this stems from past resistance in some Federal agencies to subjecting their activities to State regulation -- particularly where national security was involved. In part, too, it stems from a host of legal ambiguities revolving around the degree to which States may regulate Federal facilities, whether States may impose civil and criminal fines on Federal facilities (most cases say they may not), and whether the Resource Conservation and Recovery Act (RCRA) authorizes EPA to enforce against a sister Federal agency (EPA says yes; the Department of Justice says no --raising both statutory and constitutional objections).

To spur Federal environmental compliance, the 102d Congress passed a bill (H.R. 2194, P.L. 102-386) clarifying that Federal agencies are subject to all Federal, State, local, and interstate solid and hazardous waste requirements, and clearly authorizing EPA to take enforcement actions against other agencies. A 3-year exemption is provided for illegal storage of hazardous waste mixed with radioactive waste; such "mixed waste" is one of DOE's biggest compliance problems.

Widespread environmental contamination at DOE facilities --particularly within the Department's nuclear weapons production complex --has been one of Congress' top concerns for several years. Problems acknowledged by DOE include thousands of leaking waste pits, uncontrolled spills of hazardous and radioactive materials, and hazardous air emissions. It is estimated that cleaning up and controlling the contamination nationwide will cost more than $100 billion during the next 30 years.

DOE has pledged to clean up its contaminated sites and bring all facilities into compliance with environmental standards. Energy Secretary James Watkins released an updated 5-year plan in August 1991 that calls for annual DOE environmental expenditures of $7-9 billion by FY1997 (the FY1993 appropriation is $5.5 billion). One of DOE's immediate goals is to begin testing its new Waste Isolation Pilot Plant (WIPP), an underground repository for plutonium- contaminated waste. The facility is especially controversial in New Mexico, where it is located. Legislation to allow testing to start (S. 1671) was approved by Congress Oct. 8, 1992 (P.L. 102- 579).

LEGISLATION

P.L. 102-386, H.R. 2194

Federal Facility Compliance Act. Strengthens RCRA enforcement against Federal facilities. Senate version (S. 596) introduced Mar. 7, 1991; referred to Committee on Environment and Public Works. Approved by committee May 15, 1991, and passed Senate Oct. 24, 1991; text substituted into H.R. 2194. House bill introduced May 2, 1991; referred to Committee on Energy and Commerce. Approved by committee June 4, 1991, and passed House June 24, 1991. Conference report approved by both Houses Sept. 23, 1992. Signed into law Oct. 6, 1992.

P.L. 102-579, S. 1671

Withdraws Federal land around the site of the Waste Isolation Pilot plant from public use; allows waste-emplacement tests to begin. House version (H.R. 2637) introduced June 13, 1991; referred to more than one committee. House Interior Committee reported Oct. 7, 1991; House Armed Services reported Nov. 26, 1991; and House Energy reported Nov. 27, 1991. Passed House July 21, 1992; text substituted into S. 1671. Senate bill introduced Aug. 2, 1991; referred to Committee on Energy and Natural Resources; passed Senate Nov. 5, 1991. Conference report approved by House Oct. 6, 1992; Senate approved Oct. 8, 1992. Signed into law Oct. 30, 1992.

Mark Holt

MLC-030

GLOBAL CLIMATE CHANGE

...Senate ratifies treaty...

There is growing concern that human activities could be affecting the energy-exchange balance between the Earth, the atmosphere, and space, inducing global climate changes. These changes may have far-reaching effects, with results that could be seen as both positive and negative. Human activities, particularly the burning of fossil fuels, have increased atmospheric carbon dioxide (CO2) and other trace gases, including chlorofluorocarbons (CFCs), methane, and nitrous oxide. If these gases continue to accumulate in the atmosphere at current rates, global warming could occur through intensification of the "greenhouse effect," a process that moderates the Earth's climate, making it habitable and supportive of life. Such warming could affect agriculture, forestry, and water resources and, under certain scenarios, could lead to either rising or falling sea levels depending upon how the climate system responds. Although causal relationships between these projected long- range trends, the record-setting warmth of the 1980s, or a singular event such as the severe U.S. drought of summer 1988 have not been firmly established, such conditions have focused public attention on potential climate change and on the need for better understanding of global and regional climate and improved climate prediction models. The basic question is: Given the scientific uncertainties regarding the magnitude, timing, rate, and regional consequences of the potential climatic change, what are the appropriate policy responses, both at the national level and international levels?

Fossil-fuel combustion is the primary source of CO2 emissions, and it also emits other "greenhouse" gases. Removing these gases after combustion imposes severe technical difficulties and economic penalties. Policy options to curb emissions stress energy efficiency and conservation; the substitution of nuclear energy, renewable energy, and less CO2-intensive fossil fuels, like natural gas, for coal and oil; and consideration of other market-oriented economic strategies such as carbon taxes.

Global warming would probably have significant effects on agriculture and forestry. Regional agricultural practices could change, yield stabilities might decrease in some regions, and survival over winter of some insect pests might increase. Forest productivity might decline in some regions, and changes in climate, when added to other stresses that forests are undergoing, could produce major regional disturbances. Some changes, for example, in northernmost growing regions, might be beneficial, however.

Congress has sought to acquire information about possible climate change, to evaluate potential economic and strategic impacts of a warmer climate, and to formulate appropriate policy responses. Because of the global implications of this problem, some Members and committees of Congress have also attempted to elevate concern internationally through direct communication with world leaders, participation in international conferences, passage of congressional resolutions and appropriate legislation, and exchange of views and information with international organizations within and outside the United Nations system. It is in this milieu that scientists, diplomats, and policymakers participating in U.N.- Intergovernmental Negotiating Committee sessions concluded negotiations toward a framework convention on climate change, under United Nations General Assembly auspices. The Convention, which was opened for signature at the Earth Summit in Rio de Janeiro in June 1992, is a binding treaty expressing the commitment of its parties to limit future human-induced atmospheric greenhouse gas concentrations. That treaty was signed by the President in Rio on June 12, 1992, and was ratified by the U.S. Senate on Oct. 7, 1992. For further information, see CRS Issue Brief 89005, *Global Climate Change*. The following CRS products are also related:

Issue Brief 85130, *Energy Conservation: Technical Efficiency and Program Effectiveness*; Issue Brief 89010, *Tropical Deforestation: International Implications*; Issue Brief 89057, *International Environment: Overview of Major Issues*; Issue Brief 90021, *Energy Policy*; and Issue Brief 90110, *Renewable Energy: A New National Commitment?*

LEGISLATION

P.L. 102-389, H.R. 5679

Department of Veterans Affairs and Housing and Urban Development, and Sundry and Independent Agency Appropriations for FY1993. The conference report (H.Rept. 102-902) for the FY1993 EPA appropriation allocates $2 million for "green" programs in EPA's Global Change Program, and $500,000 for global warming and stratospheric ozone mitigation research; proposes a feasibility study for the establishment of a national laboratory for research on global environmental change in Maine; and appropriates $750,000 for EPA's Earth Observing System activities, and $4,000,000 for the Consortium for International Earth Science Information (CIESIN) [global change/public policy] Network. Such sums as indicated are in addition to EPA's baseline appropriations for the U.S. Global Change Research Program. Further appropriates $2,000,000 for activities associated with CIESIN through White House Office of Science and Technology Policy. Signed into law Oct. 6, 1992.

P.L. 102-391, H.R. 5368

Foreign Operations, Export Financing, and Related Programs Appropriations for FY1993. Contains several provisions related to global climate change. Appropriates through Agency for International Development (AID) $55 million for the Global Warming Initiative to reduce greenhouse gas emissions. Specifies that the $55 million Global Warming Initiative shall include efforts in energy efficiency and renewable energy. Other sums appropriated for global climate change activities through the World Bank's Global Environment Facility. Reported (H.Rept. 102-585) June 18, 1992. Passed House, amended, June 25. Reported to Senate by Committee on Appropriations (S.Rept. 102-419) Sep' 23, 1992. Signed into law Oct. 6, 1992.

P.L. 102-486, H.R. 776

National Energy Efficiency Act. Title XVI: Global Climate Change. Appoints a Director of Climate Protection within the Department of Energy to implement title; requires the Department of Energy to complete several reports and analyses of greenhouse gas (GHG) emissions reduction measures including an evaluation of National Academy of Sciences recommendations for strategies to mitigate and adapt to potential global warming; establishes a greenhouse-gas- reduction technology transfer program; and creates an accounting system (National Inventory and Voluntary Reporting of Greenhouse Gases) and a national register for voluntary greenhouse gas reductions by U.S. industry that provides credits toward future Federal requirements that may apply to GHG emission reductions. Authorizes $50 million for a Global Climate Change Response Fund beginning in FY1994. Money from the fund would be used to help developing countries procure technologies to curb heat-trapping greenhouse gas emissions and serve as a U.S. contribution to a financial mechanism pursuant to the U.S. Framework Convention on Climate Change. Title XIX: Revenue Provisions. Increases base-line taxes on ozone depleting substances. H.R. 776 introduced Feb. 4, 1991; referred to Committee on Energy and Commerce. Jointly and sequentially referred to several committees. Reported (amended) (H.Rept. 102- 474, Parts I-IX, Mar. 30 - May 5, 1992). Passed House as an amendment in the nature of a substitute by recorded vote, 381-37, May 27, 1992. Referred to Senate Finance Committee June 2, 1992. Ordered to be reported, amended, without written report, June 16, 1992. Successive measures to invoke cloture for consideration of H.R. 776 failed. Committee amendments modified to provide for an amendment in the nature of a substitute, replacing House tax provisions with Senate Finance Committee tax provisions by unanimous consent July 29, 1992. On July 30, 1992, committee substitute as amended agreed to by voice vote. Passed Senate, amended (93-3), July 30. Senate insisted on its amendments, asked for a conference, and appointed conferees July 30, 1992. Measure to invoke cloture on consideration of H.R. 776 passed Senate by a vote of 84-4 Oct. 8, 1992; conference report agreed to in Senate by voice vote; sent to President Oct. 8, 1992. Senate version of energy bill, S. 2166, introduced Jan. 29, 1992. Its predecessor, S. 341, introduced Feb. 5, 1991; referred to Committee on Energy and Natural Resources. Committee hearings held February through April 1991, and S. 1220, an original bill, ordered reported (S.Rept. 102-72) May 23, 1991, in lieu of S. 341. Motion to proceed to consideration of S. 1220 was withdrawn in Senate Nov. 1, 1991, after failure to invoke cloture on the motion to proceed. S. 2166 passed Senate Feb. 19, 1992, by a vote of 94- 4. Conference report (H.Rept. 102-1018) agreed to by House Oct. 5 and by Senate Oct. 8. Signed into law Oct. 24, 1992.

Wayne A. Morrissey

MLC-031

RADON: CONGRESSIONAL AND FEDERAL CONCERNS

...a national assessment...

Radon is an odorless radioactive gas that occurs naturally in many regions of the United States as well as in other countries. It is a natural radioactive decay product of uranium that occurs beneath the foundations of millions of homes and dwellings. As it further decays into "daughter" isotopes, it becomes a potential human health hazard. When the gas seeps into dwellings through cracks and other avenues of entry, it often becomes trapped within the dwelling, accumulating to potentially dangerous concentrations. The Environmental Protection Agency (EPA) has estimated that from 7,000 to 30,000 lung cancer fatalities per year may

be caused by radon gas in homes and workplaces. If these figures are accurate, radon may be the Nation's leading radiation problem and the second largest cause of lung cancer after cigarette smoking. Recent studies, however, have challenged these health estimates.

Special monitors are required to detect radon in buildings. Small low-cost monitors can be placed in buildings for weeks or months at a time, and the measurements analyzed by a qualified laboratory. If the concentration of radon exceeds the EPA action level of 4 picocuries per liter of air, remedial action to rid the building of excess radon is recommended. EPA has estimated that as many as one in eight American homes exceeds the 4 picocuries per liter level.

Several strategies can be applied to rid dwellings and buildings of radon gas. Strategies vary, depending on the type of construction and soil conditions beneath buildings. Costs for remedial action can vary from a few hundred to several thousand dollars per building. The most common strategies prevent radon entry into houses by a combination of subslab ventilation and sealing. EPA has recommended general guidelines to homeowners for eliminating radon and is developing a national program to convince the public that radon is a serious health hazard. It is expected that the issue of radon control will be a major environmental health concern for some time to come.

Federal statutory authority for dealing with the radon problem is not clearly defined in existing laws. The Clean Air Act authorized EPA to control "ambient" air and, accordingly, has been used by EPA to address only outdoor air quality. The Superfund Amendments and Reauthorization Act authorized an EPA radon gas and indoor air quality research program, including a national assessment of radon gas and a demonstration program to test methods of reducing or eliminating radon.

Future attention will likely focus on legislation that would require radon testing in schools. Congressional action has centered on a comprehensive approach to indoor air quality.

LEGISLATION

H.R. 1066 (Kennedy)
Indoor Air Quality Act of 1991. Authorizes a national program to reduce threat to human health posed by exposure to indoor air contaminants, including radon. Introduced Feb. 21, 1991; referred to Committees on Energy and Commerce, Science Space and Technology, and Education and Labor. Marked up and approved by House Science, Space, and Technology Committee July 15, 1991. Ordered reported Aug. 1, 1991.

H.R. 3258 (Markey)
Radon Awareness Disclosure Act. A bill to improve accuracy of radon testing products and services, increase radon testing in schools, and create a commission to provide increased public awareness of radon. Introduced Aug. 2, 1991; referred to Committee on Energy and Commerce, Subcommittees on Health and the Environment and on Transportation and Hazardous Materials. Reported to House by Committee on Energy and Commerce (H.Rept. 102-922) Sept. 28, 1992. Passed House Sept. 29; laid on table in House and S. 792 passed in lieu Sept. 29, 1992.

S. 455 (Mitchell)
Indoor Air Quality Act of 1991. Introduced Feb 21, 1991; referred to Committee on Environment and Public Works. Marked up and approved by Senate Committee on Aug. 1, 1991. Passed Senate, Nov. 6, 1991. Referred jointly to House Committees on Education and Labor, on Energy and Commerce, and on Science, Space, and Technology.

S. 792 (Lautenburg)
Indoor Radon Abatement Reauthorization Act. Reauthorizes program to reduce public exposure to indoor radon. Introduced Apr. 9, 1991; referred to Committee on Environment and Public Works, Subcommittee on Superfund, Ocean, and Water Protection. Hearings held May 8, 1991. Marked up and approved by Committee on Environment and Public Works Aug. 1, 1991. Reported, amended, Nov. 4, 1991 (S.Rept. 102-201). Passed Senate Mar. 10, 1992. Passed House, in lieu of H.R. 3258, Sept. 29, 1992.

Christopher H. Dodge and Michael Simpson

MLC-032

WASTE MANAGEMENT: RCRA REAUTHORIZATION ISSUES

...reauthorization legislation not enacted...

Despite substantial effort, the 102d Congress did not enact amendments to the Resource Conservation and Recovery Act (RCRA), the Nation's principal law regulating the management of solid and hazardous waste. The House Energy and Commerce Committee reported H.R. 3865, amended, Aug. 11, 1992. In the Senate, S. 976 was reported, amended, by the Committee on Environment and Public Works June 19, 1992. The Senate subsequently passed separate legislation addressing the issue of interstate shipment of municipal solid waste (S. 2877) on July 23. None of these bills was enacted, leaving the 103rd Congress to decide whether action should be undertaken.

Most of the issues in the RCRA debate concern the management of municipal solid waste (MSW). Nearly two-thirds of MSW goes to landfills, but the number of active landfills has declined from 20,000 in 1979 to fewer than 6,000 today. New regulations for landfills, promulgated by the Environmental Protection Agency in October 1991, are expected to further reduce the number of operating sites.

Few see a Federal role in encouraging new landfill capacity. However, a possible Federal role in encouraging alternatives to land disposal, particularly recycling and waste reduction, is a key issue in the RCRA debate. States and cities have been increasingly active in these areas. The instabilities of markets for recovered materials, budget constraints, and technical barriers to the recycling of mixed materials pose obstacles that are difficult to resolve at the State and local levels, however.

A second problem receiving congressional attention is the question of interstate shipment of municipal solid waste. The decline in the number of landfills and the increased cost of disposal have helped create a flourishing market in long-haul transportation of waste. Waste shipments are generally considered to be protected under the interstate commerce clause of the Constitution, but they pose problems for receiving areas, in effect penalizing communities that, through luck or careful planning, have developed adequate disposal capacity. As a result, many States have attempted to find constitutional ways of reducing or banning out-of-State waste, including moratoria on the construction of new landfills, fees on the disposal of out-of-State waste, and various planning and capacity- assurance requirements. While constitutional considerations may invalidate many of these State restrictions, they do not prevent Congress from acting to regulate such commerce.

The RCRA debate also involves other issues including whether to further regulate incinerators, how to reduce the use of toxic substances in industrial processes and consumer products, how to change the State solid waste planning process, and whether to expand the universe of wastes covered by Federal regulation. In general, there has been less attention paid to these other issues, but their impact could be as great as that of the issues more prominently discussed.

LEGISLATION

S. 2877 (Baucus, Coats)
Interstate Transportation of Municipal Waste Act of 1992. Introduced June 18, 1992; passed Senate July 23, 1992.

James E. McCarthy

FINANCIAL AND FISCAL AFFAIRS

MLC-033

BANK FAILURES AND THE DEPOSIT INSURANCE FUND

...is recapitalization of BIF sufficient?...

For more than a decade the U.S. banking industry has experienced a growing number of bank failures that has practically exhausted the Bank Insurance Fund (BIF). The Federal Deposit Insurance Corporation (FDIC) handles bank failures and manages the Bank Insurance Fund, the Federal deposit insurance fund for banks. The FDIC has struggled to resolve the failures while minimizing the costs to the insurance fund. Since 1988 the Bank Insurance Fund's balance has steadily declined as the FDIC resolves failed banks.

Many factors contributed to the present situation including deregulation, technology, individual bank management, and economic conditions. Congressional concern grew as the pace of the failures accelerated. Interest in the banks' financial problems increased as a result of the severe problems of the thrift industry which required enormous infusions of Government funds. Congress is concerned that its recent recapitalization of BIF may not be sufficient to ensure the stability of the banking industry as a whole.

(For more information on this subject, see CRS Issue Brief 92005.)

LEGISLATION

P.L. 102-242, S. 543
Federal Deposit Insurance Corporation Act of 1991. Provides funding for the Bank Insurance Fund and changes the deposit insurance system to further reduce losses to the fund. Introduced Mar. 5, 1991; referred to Committee on Banking, Housing, and Urban Affairs. Reported, amended, October 1 (S.Rept. 102- 167). Passed Senate, amended, Nov. 21, 1991. House struck all after enacting clause and inserted in lieu thereof provisions of H.R. 3768. Passed House, amended, November 23. Conference report (H.Rept. 102-407) agreed to in House and Senate Nov. 27, 1991. Signed into law Dec. 19, 1991.

Pauline H. Smale

MLC-034

BANKS AND THRIFTS IN TRANSITION

...banking issues receiving continuing attention...

The role of banks and thrifts in the Nation's economy and customer and competitor relationships have all undergone changes in the past few years due to the weakened condition of many of the institutions in the system. The unprofitable financial conditions among many of the Nation's banks and thrifts, the possible repercussions of these operating conditions on the economy, and drains the losses are causing for the deposit insurance funds are issues receiving continuing attention on the Federal level from the Congress, the Administration, and the bank and thrift regulators.

Proposals to strengthen bank operations through changes in existing laws governing interstate operations and services banking institutions may offer, proposals for Government funding for the deposit insurance funds, and assurances of the availability of credit to borrowers who normally depend on the banking system for loans are some of the specific issues being addressed. In the 102d Congress, some of these issues were dealt with in legislation enacted in 1991; others were considered in the second session.

To take care of failing banks, P.L. 102-242 provides $30 billion in borrowing authority for the Federal Deposit Insurance Fund from the U.S. Treasury for permanent loss money. These funds are expected to be repaid from banks' insurance premiums over 15 years. Additional borrowing authority provided for working capital could reach up to about $45 billion. An outstanding question is whether the $30 billion loss funding is sufficient. The law also contains numerous regulatory provisions which will be implemented over the next several years.

Funding for the Resolution Trust Corporation (RTC), the agency currently responsible for resolving problem savings institutions, has been at an impasse since April 1992. Legislation that would have provided some $43 billion for permanent loss money died when the 102d Congress adjourned. These funds are in addition to the original $50 billion provided in 1989, another $30 billion provided in March 1991, and the $7 billion used of $25 billion authorized for expenditure to April 1992 in P.L. 102-233. Funding will need to be addressed by the 103rd Congress, since ultimately the RTC or a successor organization must complete the savings and loan cleanup.

Concerns about whether bank and thrift closures and close regulatory supervision have been limiting the availability of credit, particularly to borrowers who do not normally have access to funds outside the banking system, have been voiced for more than a year. The heads of the Federal regulatory agencies for banks and thrifts have indicated that in anticipation of the numerous bank and thrift closings ahead, they will be taking special measures in attempts to avoid having such closings aggravate credit conditions. Congress also maintains active oversight of regulatory activities and their economic effects.

(For more information on this subject, see CRS Issue Brief 92040.)

LEGISLATION

P.L. 102-18, S. 419

Resolution Trust Corporation Funding Act of 1991. Amends the Federal Home Loan Bank Act to enable the Resolution Trust Corporation to meet its obligations to depositors and others by the least expensive means. Signed into law Mar. 23, 1991.

P.L. 102-233, H.R. 3435

Resolution Trust Corporation Refinancing Act of 1991. Provides funding for the resolution of failed savings associations and working capital for the Resolution Trust Corporation, restructures the Oversight Board and the Resolution Trust Corporation, and for other purposes. Introduced Sept. 30, 1991; referred to Committee on Banking, Finance and Urban Affairs. Reported, amended, Nov. 22, 1991. In the House, committee amendment in the nature of substitute considered and passed, amended, Nov. 27, 1991. Passed Senate Nov. 27, 1991. Signed into law Dec. 12, 1991.

P.L. 102-242, S. 543

Comprehensive Deposit Insurance Reform and Taxpayer Protection Act. Reforms Federal deposit insurance, protects the deposit insurance funds, and improves supervision and regulation of and disclosure relating to federally insured depository institutions. Introduced Mar. 5, 1991; referred to Committee on Banking, Housing and Urban Affairs. New language in the form of a Committee Print was released by the Committee, July 16, 1991. Reported, amended, October 1. Passed Senate, amended, Nov. 14, 1991. House substituted language of H.R. 3768, Nov. 23, 1991. Passed House, amended, Nov. 23, 1991. Conference held Nov. 25, 1991. House and Senate agreed to conference report Nov. 27, 1991. Signed into law Dec. 19, 1991.

H.R. 6 (Gonzalez)

Includes provisions to reform the deposit insurance system, to enforce the congressionally established limit on the amounts of deposit insurance, and for other purposes. Introduced Jan.3, 1991; referred to Committee on Banking, Finance and Urban Affairs. Reported July 23, 1991, to House, amended, by Committee on Banking, Finance and Urban Affairs; reported sequentially to Committees on Agriculture, Energy and Commerce, Ways and Means, and the Judiciary. The first three Committees reported their versions of the bill Sept. 25, 1991; the Judiciary Committee reported its version Oct. 3, 1991. After consideration on the House floor, an amended version of the bill was voted down Nov. 4, 1991, 89-324.

H.R. 2094 (Gonzalez)
Federal Deposit Insurance Corporation Improvement Act of 1991. Contains provisions to require the least-cost resolution of insured depository institutions, to improve supervision and examinations, provide additional resources to the Bank Insurance Fund, and for other purposes. Introduced Apr. 25, 1991; referred to Committee on Banking, Finance and Urban Affairs. On May 7, 1991, referred to Subcommittee on Financial Institutions Supervision, Regulation and Insurance and forwarded to the full Committee, amended. Reported, amended, Nov. 7, 1991. Failed passage Nov. 14, 1991, by vote of 191- 227.

H.R. 2654 (Torres)
Truth in Savings Act. Requires clear and uniform disclosure by depository institutions of interest rates payable and fees assessable with respect to deposit accounts. Introduced June 13, 1991: referred to Committee on Banking, Finance and Urban Affairs. Ordered to be reported (amended) July 30, 1991. Passed House Sept. 24, 1991. Truth in Savings provisions were later incorporated in S. 543, as enacted.

H.R. 3768 (Gonzalez)
Federal Deposit Insurance Corporation Improvement Act of 1991. Requires the least-cost resolution of insured depository institutions, improves supervision and examination, provides additional resources to the Bank Insurance Fund, and for other purposes. Introduced Nov. 14, 1991; referred to Committee on Banking, Finance, and Urban Affairs. Reported Nov. 14, 1991. Passed House, amended, Nov. 21, 1991. (See P.L. 102-242, S. 543.)

H.R. 4704 (Gonzalez)
Removes the limitation on the availability of funds previously appropriated to the Resolution Trust Corporation. Introduced Mar. 31. 1992; referred to Committee on Banking, Finance and Urban Affairs. Defeated by the House, 125-298, Apr. 1, 1992.

S. 2482 (Riegle)
Provides funding for the Resolution Trust Corporation, and for other purposes. Introduced Mar. 25, 1992; referred to Committee on Banking, Housing, and Urban Affairs. Reported an original measure March 25. Passed Senate, amended, Mar. 26, 1992.

F. Jean Wells

MLC-035

SAVINGS AND LOAN CLEANUP: BACKGROUND AND PROGRESS

...cost of cleanup estimated at near $200 billion...

The Resolution Trust Corporation (RTC) was set up in August 1989 by the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) to close insolvent savings and loan associations, make good on Federal guarantees to the depositors of the thrifts, and dispose of the assets taken over in the closures. The taxpayer-funded cost of this "cleanup," including pre-1989 resolutions of about $60 billion, is expected eventually to be near $200 billion for "resolving" about 1,100 insolvent thrifts. The RTC is expected to commit about $135 billion for the post-FIRREA phase of the cleanup by its cutoff date of Sept. 30, 1993. Through August 1992, the RTC had taken over 721 thrifts, resolving 652 of them with expected net losses of about $85 billion. About 22 million accounts averaging $9,000 have been made whole by the funding.

The failures precipitating the cleanup and their great expense were due to three interrelated phenomena: first, the maturity risk -- borrowing short-term deposits to lend for long-term mortgages -- which was the basis for the thrift industry; second, the presence of Federal deposit insurance which removed any incentive for depositor concern over the safety and soundness of individual institutions; and third, the policy of forbearance, which allowed failing institutions to continue to operate long after they would have gone out of business except for the Federal deposit guarantees.

Initial funding for the RTC was $50 billion, financed in a manner intended to keep the outlay mostly off-budget and thereby avoid what could have been costly program disruptions for the sake of settling the debt. The result of low funding, however, has been that the RTC has repeatedly run low on funds, impeding the cleanup process. Whenever this happens, the costs go up because the institutions not closed continue to lose money. Funding is needed both for permanent losses -- outlays which are not recovered through sales of assets -- and also "working capital." Only loss funds are appropriated. Working capital is used as "up-front" money, to carry the assets taken over until they can be sold and the money recovered. The original $50 billion in loss funds had to be supplemented by $30 billion in March 1991, and in November 1991 by another $25 billion which could not be used after Apr. 1, 1992. On April 30, $18 billion was returned to the Treasury. Without new legislation, the RTC is constrained from closing more thrifts. One consequence of the current delay is likely to be a lower than expected Federal deficit for FY1992. This is no true savings: at costs estimated to have risen to $6 million per day, the delay bodes ill for future budgets.

There are three ways to resolve a failed thrift. The most common is to allow another financial institution to buy it, with most of its good assets. The second most common transfers the deposits to a healthy institution which then becomes the paying agent for the RTC. The third is a simple deposit payout directly from the RTC which takes over all assets. Because the first two methods effectively make most creditors whole and not only insured depositors, they are only used when they are estimated to result in cost savings to the RTC ($3.1 billion to date).

Assets taken over by the RTC include financial paper (securities, including "junk bonds," mortgages, and other loans) and real property (land, houses, commercial buildings). There are major marketing, legal, environmental, and other difficulties in disposing of these assets, which nonetheless are supposed to be sold quickly. Through July 1992, the RTC had disposed of $273 billion, but still held $121 billion in total assets.

(For more information on this subject, see CRS Issue Brief 91070.)

LEGISLATION

P.L. 102-18, S. 419

Resolution Trust Corporation Funding Act of 1991. Amends the Federal Home Loan Bank Act and authorizes an additional $30 billion to enable the RTC to meet its obligations to depositors and others by the least expensive means; requires several management reforms; allows sale of affordable housing without minimum purchase price; other adjustments. Signed into law Mar. 23, 1991.

P.L. 102-233, H.R. 3435

Authorizes funds as needed through Apr. 1, 1992, not to exceed $25 billion to enable the RTC to meet obligations to depositors and others; streamlines RTC authority by altering oversight structure. Signed into law Dec. 12, 1991.

S. 2482 (Riegle)

Removes Apr. 1, 1992 deadline on spending available funds and adds $25 billion for use by the RTC in resolving insolvent thrifts; contains other provisions. Introduced Mar. 25, 1992; referred to Committee on Banking, Housing and Urban Affairs. Passed Senate, amended, Mar. 26, 1992.

Barbara Miles

FOREIGN POLICY AND ASSISTANCE PROGRAMS

MLC-036

AFRICA: CONFLICT AND FAMINE

...stability or fragmentation...

In 1992, the Horn of Africa remains a region marred by relentless ethnic strife and devastating famine. According to the United Nations, an estimated 23 million people are at risk of starvation in the Horn of Africa. Civil wars rage in almost all Horn countries with varying degrees. Since January 1991, an estimated 100,000 people may have died due to the ongoing conflict and famine in Somalia. In the eastern region of Ethiopia, hundreds of thousands of people are fleeing their homes to escape ethnic strife, while in southern Sudan refugees are fleeing to Kenya and Uganda. In Kenya, a devastating drought, massive refugee influx from neighboring countries, and tribal conflicts, have overwhelmed the once stable and self- sufficient country.

In Ethiopia, one year after the ouster of Mengistu, multi-party elections were held in June 1992, although this first democratic experiment was less than successful. Many international observers have accused the ruling Ethiopian People's Revolutionary Democratic Front (EPRDF) of intimidation and harassment of opposition groups. In northern Ethiopia, the Eritrean Peoples Liberation Front (EPLF) gained control of Eritrea after decades of fighting with successive Ethiopian governments. Eritreans plan to hold a referendum on the future of Eritrea in April 1993.

Somalia, a nation of about 6.5 million people, has virtually disintegrated into chaos and anarchy. The government of Siad Barre, who ruled Somalia for over two decades, collapsed in January 1991 under attack by clan-based rebel groups. In May 1991, the Somali National Movement (SNM), a northern rebel group, declared what used to be northern Somalia an independent state of Somaliland. The south, mainly under the control of the United Somali Congress (USC), remains mired in internal strife. Relief workers in Somalia fear that a third of the country's population could die in the next few months without massive emergency food assistance. In July 1992, the United Nations Security Council passed a resolution calling for massive emergency airlift of food to starving Somalis and called for the deployment of security forces to protect relief food and workers in Somalia.

Djibouti, a nation of about 350,000 people, is undergoing important political change in 1992. In mid-November 1991, several thousand armed Afars, one of the two major ethnic groups in Djibouti, launched a major offensive in the northern towns of Tadjourah and Obock against the government of President Hassen Gouled Aptidon. The Afars are demanding a greater share of political power in Djibouti. In response to the Afar rebellion and international pressure, the Aptidon government introduced sweeping political reforms in mid- 1992. Multi-party elections are scheduled to take place on Dec. 20th, 1992.

The Sudan, once considered a possible breadbasket for Africa, has been in serious political turmoil and deep economic crisis for several years. The military government of General Omar Bashir, which came to power in a coup in the summer of 1989, appears determined to stay in power and crush any opposition to its rule. The Sudan, like its Horn neighbors Somalia and Ethiopia, is locked in internal strife. The Sudan Peo-

ples Liberation Army (SPLA), a southern-based rebel group, has been at war with the Khartoum government since 1983. In recent months, SPLA was dealt a major blow in a series of battles against government forces. In June 1992, SPLA lost its last stronghold, Torit, to government forces. In October, tension continued to mount in southern Sudan with the siege of Juba, the southern capital, by factions of the SPLA. Meanwhile, factional fighting within the SPLA has virtually crippled relief efforts in the south.

Africa's wars and famines are not confined to the Horn. Liberia, in West Africa, has been gripped by civil war since the beginning of 1990. A West African peacekeeping force has gained tentative control of the capital, Monrovia. Agreement was reached in December 1991 among the warring factions in Liberia, but the transition to democratic rule seemed stalled in 1992. Half of the 2.5 million population has been displaced by war and another 730,000 have fled to neighboring countries as refugees. Food production has been seriously disrupted, but it is not clear famine will result. In October 1992, the peace process appeared stalled with renewed fighting in the capital.

Angola has been torn by war for years, and the death toll may exceed 300,000. On May 31, 1991, however, the government and the UNITA resistance movement signed a peace accord that provides for a cease-fire and free elections. U.S. officials played a key role in mediating this accord, and diplomats are cautiously optimistic about its prospects for success. Multi- party elections were held in late September 1992. However, UNITA, one of the major opposition groups, charged that the elections were flawed, and threatened not to honor the results. For days after the elections, Angola appeared to be moving toward another round of civil war. In mid-October, however, the election commission released election results showing that the MPLA's presidential candidate fell short of the 50% needed to avoid a runoff. Consequently, peacemakers were hoping that the previously-agreed runoff election would take place.

In South Africa over 52,000 people were detained after 1984 when anti- apartheid protests were renewed. Violence has accompanied the unrest, resulting in over 9,000 deaths in clashes with police, more than 6,000 deaths in factional fighting in Natal, and over 1,000 deaths in ethnic and political clashes in the townships. After President de Klerk released Nelson Mandela in February 1990, the government began informal talks with the African National Congress (ANC) and other black organizations about future power sharing between whites and blacks.

A major conflict developed between the ANC and the Inkatha Freedom Party (IFP) in 1990. Although a peace accord was signed between these parties and the government in September 1991, the accord did not completely quell the violence. The long-awaited negotiations between anti-apartheid groups and the South African government which began in December 1991 were suspended in June 1992 after an estimated 50 people were killed in Boipatong township. The ANC stated that negotiations could not resume until the South African government took serious measures to curb the township violence. In late September, South African President de Klerk and ANC President Mandela agreed to resume negotiations. Meanwhile, the head of the Inkatha Freedom Party, Chief Buthelezi, announced that his party would not participate in the negotiations.

In July 1991, President Bush lifted U.S. sanctions that were imposed by Congress in 1986, but remaining sanctions included the U.N. arr embargo, a prohibition against U.S. support of IMF loans to South Africa, and numerous state and local sanctions.

The deteriorating humanitarian situation in Africa's war-torn countries resulted in a number of legislative initiatives in 1991 and 1992. The Horn of Africa has been of particular concern, while other proposed legislation has dealt with Liberia, Angola, Somalia, and South Africa. The foreign assistance authorization bill (H.R. 4546) for FY1992 and FY1993, authorizes the use of funds to assist the process of democratization in Angola; earmarks $28.3 million in ESF funds for sub-Saharan Africa; authorizes funds for Liberian relief assistance program and support for the West African peacekeeping force; and prohibits assistance for the South African Communist Party or any group affiliated with it. On Apr. 1, 1992, President Bush signed into law a $14.2 billion foreign aid package after Congress passed a continuing resolution for the remainder of the fiscal year. In FY1992 Africa received $778 million under the DFA program.

LEGISLATION

P.L. 102-270, S.J.Res. 271

Expresses the sense of Congress regarding the peace process in Liberia and authorizes reprogramming of existing foreign aid appropriations for limited assistance to support this process. Signed into law Apr. 16, 1992.

P.L. 102-274, S. 985

Horn of Africa Recovery and Food Security Act of 1991. Calls for grassroots participation in dealing with Horn countries concerning food security, development, and other basic necessities for the people of the Horn of Africa. Urges the U.S. Government to help resolve the conflicts in the Horn of Africa by way of negotiations, and to promote democratic rule in the region. Authorizes the President to transfer unobligated Economic Support Funds and military assistance. Signed into law Apr. 21, 1992.

P.L. 102-391, H.R. 5368

FY1993 foreign operations appropriations. Provides $800 million for the Development Fund for Africa (DFA); appropriates a one-time funding of $100 million for disaster relief, rehabilitation, and reconstruction assistance for Africa with $25 million earmarked for Somalia; and earmarks $50 million for SADCC. Signed into law Oct. 6, 1992.

Theodore S. Dagne

MLC-037

THE CAMBODIAN PEACE AGREEMENT: ISSUES FOR U.S. POLICY

...new set of issues for U.S. policy...

The signing on Oct. 23, 1991, of a Cambodian peace agreement in Paris raised a new set of issues for U.S. policy and renewed debate between the Bush Administration and its congressional supporters, who endorse the agreement, and critics in Congress, who have long-standing differences with the Administration's approach to policy toward Cambodia. The peace plan gives a strong role to a U.N. peacekeeping force that will monitor the end of outside military assistance, disarm combatants, and control key government administrative functions until a new Cambodian government is established. The U.N. also is playing a key role in repatriating over 300,000 displaced Cambodians along the Thai border and other Cambodian refugees, and in setting up the means for nationwide elections for a new government in Cambodia. Estimates on the size of the U.N. contingent range around 20,000 and the cost estimates top $2 billion. It is expected that elections will not be held for some time, perhaps in 1993.

The Bush Administration and backers in Congress have endorsed the peace agreement, but critics charge that there are insufficient safeguards to prevent the return to power of the Khmer Rouge. Controversy also centers on how much economic and other support the United States should provide to the U.N. administration, and how quickly the United States should move forward in normalizing economic and political ties with Cambodia. The reported inefficiencies and disruptive effects of the large U.N. presence in Cambodia, the chaotic economic situation in Phnom Penh, and the continued refusal of the Khmer Rouge to cooperate with the peace plan all pose serious problems for American policy.

The Bush Administration and supporting Members of Congress argue that the U.N. plan represents the best that could be reached under admittedly difficult circumstances and contains safeguards sufficient to contain the Khmer Rouge and restore peace and stability to Cambodia. Opposed to this view are those who would have preferred a strategy of working more closely with the Vietnamese- backed government in Phnom Penh, and with Vietnam, if necessary, to build stronger support in Cambodia against a resurgent Khmer Rouge. Between these positions are U.S. leaders who are reluctant to associate too closely with the Cambodian accord because of its sanction of the Khmer Rouge, its cost, or the inability of the United States to substantially influence developments in a faraway country subject to historical animosities and more heavily influenced by close-by-powers, notably Vietnam and China.

Particular questions for U.S. policy addressed in 1992 included the following:

-- How quickly should the United States establish normal economic and political relations with the "Supreme National Council" -- the multiparty group in Phnom Penh embodying Cambodian sovereignty under the Paris Agreement? The U.S. set up an official liaison office in Phnom Penh in November 1991 and lifted the trade embargo in January 1992.

-- How should the U.S. respond to the Khmer Rouge refusal since mid- 1992 to submit to U.N. controls and demobilize combatants? Thus far, U.S. policy has focused on working closely with U.N. peacekeepers and international opinion to press the Khmer Rouge to comply with terms of the peace accord.

-- How much support should be provided for the U.N. presence, and when should it be provided? A Bush Administration proposal in early 1992 calling for $350 million for Cambodia over the next year evoked some strong criticism in Congress. On April 1, H.J. Res. 456 (P.L. 102-266) was approved, providing $200 million of FY1992 funds for peacekeeping in Cambodia. Press reports of waste and poor accounting in the U.N. program complicated the U.S. consideration of aid in late 1992.

-- How much support should be provided for other needs in Cambodia? The FY1993 Foreign Operations Appropriations bill (H.R. 5368) passed the Congress in October 1992 with provisions calling for $25 million in aid for Cambodia; with specific provisions in support of Cambodian children ($5 million). The bill also called on the Bush Administration to report on U.S. plans to contribute to rebuilding war torn Cambodia and to report on the progress of the U.N. peacekeeping efforts there. In June 1992, the Bush Administration representative at an international conference on pledging aid to rebuild Cambodia promised that the U.S. would provide $135 million of the $880 million pledged by conference participants.

-- What kind of support, if any, can or should the United States provide to the two noncommunist Cambodia factions that in the past received both covert and

overt U.S. aid? The Cambodian resistance was allocated $5 million in economic support funds for FY1992. H.R. 5368 contained no specific provision of aid for the noncommunist Cambodia factions.

-- What steps, if any, should the U.S. take to deal with the chaotic economic situation in Phnom Penh and other parts of Cambodia caused by the large influx of foreign money and personnel?

LEGISLATION

P.L. 102-266, H.J.Res. 456
Joint resolution making further continuing appropriations. Passed Congress April 1, 1992. Signed into law Apr. 1, 1992.

P.L. 102-391, H.R. 5368
Foreign Operations Appropriations for FY1993. Passed House (amended) June 25, 1992. Passed Senate, Oct. 1, 1992. Conference report passed House and Senate Oct. 5, 1992. Signed into law Oct. 6, 1992.

H.R. 2508 (Fascell)
Foreign Assistance Authorization bill for FY1992 and FY1993. House rejected conference report (H.Rept. 102-225), 159-262, Oct. 30, 1991.

H.R. 2621 (Obey)
Foreign Operations Appropriations for FY1992. Passed House June 19, 1991.

Robert G. Sutter

MLC-038

CHINA-U.S. RELATIONS

...little progress...

Three years after the military crackdown against democracy demonstrators in Tiananmen Square, China's aging top-level leaders continue to disagree on many economic and political issues. But in contrast to late 1991, when conservative leaders continually challenged the economic reforms of the Deng Xiaoping era, media reports and articles in 1992 have increasingly defended economic reforms, indicating that proponents of reform have mounted a strong counterattack. Deng himself is seen as instrumental in the new offensive. Early in the year he made historic trips to South China and other economically vibrant areas, and press articles attributed to Deng and his supporters have repeatedly stressed the importance of speeding up economic reforms. Despite this positive trend, the extreme age of Deng and other top leaders has left U.S. observers cautious about China's future.

Faced with the reemergence of these "old guard" leaders after Tiananmen Square, the United States imposed a number of sanctions against China, including bans on military sales, military exchanges and visits, and new Overseas Private Investment Corporation (OPIC) loans, among others. Most of these sanctions, designed to pressure Chinese leaders to pursue more liberal policies, remain in place. Nevertheless, many Americans have continued to see China as a chronic abuser of human rights, an unfair trading partner, and an irresponsible seller of weapons and nuclear materials to unstable Middle East countries.

In addition to the sanctions described above, in 1990, 1991, and again in 1992, Congress majorities attempted to place conditions on China's receipt of most-favored-nation (MFN) trading status. MFN is the tariff status that the United States extends to most of its trading partners. Legislation in 1992 would have required the President to certify that China had met certain conditions relating to human rights, trade, and weapons proliferation before it would be awarded MFN status. The legislation also provided that withdrawal of China's MFN status in such an event would apply only to state-owned enterprises and not to private sector or joint-venture enterprises. The President vetoed the legislation on September 28, despite the fact that both houses of Congress had passed the bill by wide margins. On Oct. 1, 1992, the President's veto was sustained in the Senate by a vote of 59-40.

In large part because of congressional pressure over the past 2 years, President Bush in 1991 began to take a firmer stand on contentious issues between China and the United States. Among the actions the President has taken are: investigations of specific allegations that China has exported products made with prison labor; investigations under Section 301 of the Trade Act of 1974 on allegations that China has unfairly restricted U.S. imports and has pirated U.S. software and other intellectual properties; and negotiations to pressure China to adhere to international agreements restricting ballistic missile sales and nuclear proliferation. These actions parallel significant congressional concerns and legislative efforts.

LEGISLATION

P.L. 102-138, H.R. 1415
Foreign Relations Authorization Act for FY1992-93. Authorizes appropriations for the Department of State and other purposes. Reflecting ongoing congressional concern about the Administration's policy approach toward China, the law requires the following: establishment of an independent Commission on Broadcasting to the PRC to study the feasibility of instituting a special broadcasting service to China; and a Presidential report to Congress, within 90 days of the law's enactment, on "Chinese Nuclear, Chemical, Biological, and Missile Proliferation Practices." The law also expresses the sense of Congress that Tibet is an occupied country under the established principles of international law.

Passed House May 15, 1991. Senate struck all after the enacting clause and incorporated amended text of similar measure, S. 1433, July 29, 1991. Conference report (H.Rept. 102-238) agreed to in Senate Oct. 4, 1991, and in House Oct. 8, 1991, both by voice vote. Signed into law Oct. 28, 1991.

P.L. 102-383, S. 1731

U.S. Hong Kong Policy Act of 1991. Sets forth prescriptions for U.S. policy toward Hong Kong leading up to and after its return to China in 1997. Introduced Sept. 20, 1991; referred to Senate Committee on Foreign Relations, which held hearings Apr. 2, 1992. On May 7, the Committee reported the bill with an amendment in the nature of a substitute. The Senate passed the bill, amended, by voice vote on May 27, 1992. The House Foreign Affairs Committee held hearings on Apr. 9, 1992. The House passed the bill, amended, by voice vote on Aug. 11, 1992. The Senate agreed to the House amendments by voice vote on Sept. 17, 1992. Signed into law Oct. 5, 1992.

H.R. 2212 (Pelosi)

Placed conditions on China's MFN status beginning in 1992. Would have prohibited the President from extending MFN status to China in 1992 unless the Chinese government accounted for and released citizens imprisoned for the nonviolent expression of their political beliefs during and after the Tiananmen Square crackdown; and unless the Chinese government has made significant progress in other matters involving human rights. Passed House (amended) July 9, 1991 (313-112); passed Senate (amended) July 23, 1991 (55-44). Conference report (H.Rept. 102-392) passed House Nov. 26, 1991 (409-21); passed Senate Feb. 25, 1992 (59-39); vetoed by President Bush Mar. 2, 1992; House overrode veto March 11 (357-61); Senate failed to override March 18 (60-38).

H.R. 5318 (Pease)/S. 2808 (Mitchell)

Both bills place conditions on China's MFN status beginning in 1993. H.R. 5318 would prohibit the President from extending MFN status to China in 1992 unless the President can certify that the Chinese government either has met or has made significant progress toward meeting the following conditions: accounting for and releasing citizens imprisoned for the non- violent expression of their political beliefs during and after the Tiananmen Square crackdown; ending religious persecution in China and Tibet; removing restrictions on freedom of the press and on Voice of America broadcasts; terminating harassment of Chinese overseas; ensuring freedom from torture; ensuring access of international human rights monitoring groups to prisoners, trials, and places of detention; and terminating restrictions on peaceful assembly in China and Tibet. The bill also provides that should the President not be able to make these certifications, MFN status would continue for all enterprises and joint ventures that are not state-owned enterprises. Introduced June 3, 1992, referred jointly to Committees on Ways and Means and Rules; hearing before Trade Subcommittee on June 29; reported by full Committee on July 2, by voice vote (H.Rept. 102-658); passed House July 21, 1992, by a vote of 339- 62. Passed Senate, amended, by unanimous consent on September 14. House accepted Senate amendment on September 22 (no recorded vote). On Sept. 28, 1992, the President vetoed the bill. The House overrode the veto on Sept. 30, 1992 (345-74); the Senate failed to override on Oct. 1, 1992 (59-40).

S.Con.Res. 41 (Pell)

Expresses the sense of Congress that Tibet is an occupied country under established principles of international law whose true representatives are the Dalai Lama and the Tibetan government in exile, not the government in Beijing. Introduced May 21, 1991; referred to Committee on Foreign Relations. Passed Senate May 24, 1991.

Kerry B. Dumbaugh

MLC-039

FOREIGN AID: BUDGET, POLICY, AND REFORM

... numerous ideas to redefine priorities...

With dramatic global change, the end of the Cold War, and domestic problems facing the United States, many question whether the existing rationale and structure of the foreign aid program continues to further American objectives overseas and whether money spent on economic development and security abroad could be more productively used at home. As part of this reassessment, some also question the effectiveness of the Agency for International Development, the lead implementing institution for American economic assistance.

Numerous ideas to redefine new U.S. foreign aid priorities have emerged, although no consensus yet exists. Some believe that a restructured foreign aid program will require a reallocation of aid resources, from security assistance to programs focused on economic growth, poverty alleviation, and sustainable development. For others, concern over what is perceived as a declining U.S. competitive edge in the international economy has led to suggestions that foreign assistance should focus more on ways to promote American exports and trade. Another group, however, takes a more cautious approach, arguing that it is premature to abandon longstanding U.S. security policy. They point out that the United States will continue to confront security challenges in the Third World not related to those that arose in an East-West context. Finally, in late 1991 there appeared support for the view that too much was being spent on foreign aid and that the funds could be more effectively used to address domestic needs. Supporters of foreign assistance warn, however, that a significant reduction in aid budgets, especially aid to the former Soviet Union, would signal a U.S. withdrawal from international leadership on a range of issues important to American national interests.

The foreign assistance proposal for FY1993 sought $15.8 billion foreign aid request for FY1993, a level about $850 million, or 5.7% more than available for FY1992. While the recommendation was about the same size as those sought for the past couple of years, it contained several significant changes in program and country allocation levels and appeared to represent a first, although modest, step in setting new foreign aid spending priorities. Highlights of the FY1993 request included: $470 million in technical and humanitarian aid for the former states of Soviet Union; $450 million for Eastern Europe and the Baltics; and $100 million for a Capital Projects Fund to undertake additional developmentally sound infrastructure projects that may benefit American businesses. For the first time in many years, the foreign aid request for military assistance was smaller than proposed the previous year -- the $4.2 billion military aid recommendation is over $400 million less than submitted for FY1992. (Because Congress cut the President's military aid proposal for the current year, however, the request for FY1993 is still slightly higher than existing funding for military programs.)

Congress acted on several foreign aid bills in 1992 -- including an aid package for the former Soviet Union and FY1993 foreign assistance appropriations -- but not on legislation to overhaul and restructure the program comprehensively. Several congressional leaders, however, have announced plans to take up such an effort in the 103d Congress.

Before adjourning in early October, Congress passed two appropriation measures containing all foreign aid spending for FY1993. The net effect of these separate actions sets foreign aid amounts for the new year at $14.73 billion, $244 million below FY1992 levels and about $1.1 billion less than the President requested for FY1993. The largest cuts came in security aid accounts, reduced by over $1.1 billion from amounts for last year and requested for FY1993. Congress, however, approved $417 million for the former Soviet Union, as requested, and authorized $10 billion in loan guarantees for Israel. Lawmakers rejected the $100 million capital projects fund request, but required that 10% of certain economic aid programs be used to fund capital projects, something that the sponsors believe will increase spending on infrastructure activities by $144 million and provide new opportunities for U.S. exporters.

LEGISLATION

P.L. 102-391, H.R. 5368

Foreign operations, Export Financing, and Related Programs Appropriations Bill, 1993. Introduced June 10, 1992; reported June 18, amended (H.Rept. 102- 585); passed House June 25 (297-124). Reported by Senate Appropriations Committee Sept. 23 (S.Rept. 102-419); passed Senate Oct. 1 (87-12). Conference report filed in House Oct. 4 (H.Rept. 102-1011); House (312-105) and Senate agreed to conference report Oct. 5; signed into law Oct. 6, 1992.

P.L. 102-511, S. 2532/H.R. 4547

Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992. S. 2532 reported by Senate Foreign Relations Committee June 2, 1992 (S.Rept. 102-292); passed Senate July 2 (76-20). H.R. 4547 reported by House Foreign Affairs committee June 16 (H.Rept. 102-569; pt. 1) and June 22 (H.Rept. 102-569, pt. 2). Passed House, amended, August 6 (255- 164). Conference report on S. 2532 filed in House Oct. 1 (H.Rept. 102-964); Senate agreed to conference report Oct. 1; House agreed to conference report Oct. 3 (232-164). Signed into law Oct. 24, 1992.

H.R. 2508 (Fascell)/S. 1435 (Pell)

International Cooperation Act of 1991. H.R. 2508 rewrites much of the existing foreign aid legislation and authorizes foreign aid programs for FY1992 and 1993. Introduced and reported June 4, 1991 (H.Rept. 102-96); passed House, amended, June 20 (274-138). S. 1435 introduced and reported July 8, 1991 (S.Rept. 102-100). Passed Senate, amended, and passed H.R. 2508 in lieu of S. 1435 July 29 (7418). Conference report filed Sept. 27 (H.Rept. 102-225); Senate agreed to conference report Oct. 8 (61-38); House rejected conference report Oct. 30 (159-262).

Larry Q. Nowels

MLC-040

JAPAN-U.S. RELATIONS

...criticism in Congress...

Japan-U.S. relations remain more uncertain than at any time since the end of the World War II. As longstanding military allies and increasingly interdependent economic partners, Japan and the United States have worked closely together to build a strong, multifaceted relationship based on democratic values and interests in world stability and development. But strains have grown markedly in recent years as Japan's economic and technological power has developed enormously relative to that of the United States. Japan today is our foremost economic and technological competitor. Concurrently, the thaw in the cold war raised new questions about the strategic rationale in the U.S.-Japanese alliance.

Congress heavily influences the economic, technological, and security issues that dominate the relationship and are likely to be the driving forces behind it in the years to come. Congressional criticism of Japan's slow response to the Persian Gulf crisis was a salient feature of deliberations at the outset of the 102d Congress. Later in 1991, legislative initiatives concerning

U.S. economic, technology, foreign aid, and security policies had important implications for Japan, although legislation rarely focused explicitly on Japan or on issues in U.S.-Japan relations.

In contrast, legislative initiatives and congressional debate strongly critical of Japan characterized the opening of the second session of the 102d Congress in 1992. The persisting U.S. economic recession, major cutbacks and losses in the U.S. auto industry, and pressures of election- year politics resulted in a series of highly publicized congressional efforts to remedy persisting trade imbalances and other disputes with Japan. President Bush's widely reported January 1992 visit to Japan in the company of U.S. auto industry and other business representatives prompted several weeks of acrimonious debate between U.S. and Japanese leaders about the respective weaknesses of U.S. and Japanese enterprises and societies. Members of Congress were active participants in the debate and offered resolutions to support their remarks. Congressional opinion was far from uniform, however, with some urging a halt to unproductive "Japan bashing" or calling for mutual accommodation in talks on a U.S.-Japan free trade accord. By later in the year, relations with Japan were relatively calm and significantly were not a major issue in the U.S. presidential race. Meanwhile, U.S. defense restructuring after the cold war saw congressional authorizing and appropriating committees carefully reviewing allied efforts to support U.S. forces abroad --- an area where Japan's government has received praise from Congress in recent years. Congress also generally welcomed Japan's pledge to play a central role in support of expensive U.N. peacekeeping efforts in Cambodia and other countries.

Legislative initiatives in the past year focused in three categories:

-- Resolutions critical of Japanese leaders' comments and Japanese practices (e.g., S. Res. 245, H.Res. 331);

-- Legislation specifically targeting Japan over alleged unfair trade practices or other economic issues. The Trade Enforcement Act of 1992 (H.R. 4100/S. 2145) would have required Japan to reduce its trade surplus with the U.S. by 20% annually over a 5-year period or face U.S. restrictions on Japanese auto imports. Other bills (e.g., S. 2395) also dealt with Japanese auto exports to the U.S. , while H.R. 1610 pressed for opening Japan's rice markets. Much of this legislation was incorporated in modified form into the Trade Expansion Act, H.R. 5100, which passed the House on July 8 but was not taken up by the Senate.

-- Legislation not explicitly targeting Japan but with major implications for future U.S.-Japan economic relations. Examples include several proposals (S. 301/H.R. 787, H.R. 3702, S. 1850) that would have reauthorized and in some cases strengthened the super 301 provision of the Trade Act of 1988; efforts (H.R. 697/S. 468) to provide for fair trade in financial services -- e.g., to overcome restrictions on U.S. banks' activities in Japan; and a bill (H.R. 4318) that would have increased the U.S. tariffs on minivans.

Meanwhile, the reevaluation of the U.S. defense posture after the cold war led to close congressional scrutiny of U.S. overseas deployments and allied burden sharing arrangements. The defense authorization and appropriations bills of the 102d Congress, first session (P.L. 102-190, P.L. 102-172) were accompanied by congressional expressions of approval of Japan's strong financial and other support for U.S. forces in Japan. In authorizing and appropriating legislation during the second session (H.R. 50061/H.R. 5504), Congress asked for even stronger allied burden sharing, set targets for reducing U.S. troops abroad, and cut funds in support of U.S. bases overseas.

Congressional actions on Japan's foreign assistance efforts were mixed. On the one hand, Congress depended on Japan to play a major role in support of expensive U.N. peacekeeping efforts in Cambodia and other countries. On the other hand, Title XI of the foreign aid authorization bill (H.R. 2508) considered by the House during late 1991 had provisions designed to help U.S. businesses compete better against Japan and other donors in aid recipient countries. In August 1992, the House also passed legislation H.Con.Res. 179 calling on Japan to purchase U.S. commodities in helping relieve world hunger.

In technology policy, P.L. 102-190 included about $20 million for technology and management policy initiatives designed to make U.S. firms and associations better informed on technological developments and management techniques in Japan. Similar initiatives were seen in H.R. 5006 in 1992. Other technology-related legislation relevant to Japan dealt with oversight of technology exchanges (H.R. 938), semiconductor trade (H.R. 133), and U.S. Government translation of Japanese technical literature (H.R. 1989). Senators Bingaman, Hollings, and Gore introduced a legislative package in mid-1991 that they judged would enhance U.S. technological leadership and bolster the competitiveness of U.S. manufacturing in the face of stiff competition from Japan and elsewhere. A new legislative package (S. 2909) with a similar goal was introduced by Senators Bentsen, Danforth, Bingaman and Kerrey in mid-1992. In September 1992, Senate-passed reauthorization of the U.S. Trade Representative's Office included an amendment reauthorizing the Competitiveness Policy Council.

Finally, congressional scrutiny of Japan's environment-nuclear energy policy led to a provision in the Energy bill (H.R. 776) passed by Congress in October

1992 which required a U.S. study of the safety of plutonium shipments, extracted from U.S.-supplied uranium, planned by Japan and involving sea transport between France and Japan.

LEGISLATION

P.L. 102-172, H.R. 2521
Defense Appropriations for FY1992. Signed into law Nov. 26, 1991.

P.L. 102-190, H.R. 2100
Defense Authorization for FY1992 and FY1993. Signed into law Dec. 5, 1991.

P.L. 102-396, H.R. 5504
Defense Appropriation for FY1993. Signed into law Oct. 6, 1992.

P.L. 102-484, H.R. 5006
Defense Authorization for FY1993. Signed into law Oct. 23, 1992.

P.L. 102-486, H.R. 776
Has provision requiring a study of the safety surrounding Japan's intercontinental shipment of plutonium extracted from U.S. supplied uranium. Signed into law Oct. 24, 1992.

H.R. 4318
Has provision raising tariff on imported minivans. Passed House July 31, 1992.

H.R. 5100
Trade Expansion Act, passed House July 8, 1992.

Robert G. Sutter

MLC-041

MIDDLE EAST ARMS CONTROL

...disincentives remain...

Over the last two decades, countries in the Middle East imported over $200 billion worth of weapons and military equipment. Israel, Egypt, and Iraq also built extensive military industries, based largely on technology from Western democracies and the Soviet Union. The Middle East arms race has greatly increased the destructive powers of the armed forces in the region, affected the region's instability, and caused the allocation of vast economic resources for military purposes. Especially worrisome have been the efforts of the countries in the region to develop nuclear, chemical, and biological weapons and long-range missile delivery systems.

The United States and four other major arms supplier nations have made proposals to curb the spread of lethal weapons to the Middle East in the aftermath of the Persian Gulf war. At the same time, the Administration is pursuing additional arms sales to several Middle East countries, and other major suppliers have continuing arms relationships with the Middle East.

Middle East countries are resistant to arms control efforts, and they cite an array of perceived threats in justification for their arms procurement programs. Suppliers historically have been responsive to requests for arms from Middle East countries, both for political influence and economic returns. Supplier restraint is critical to arms control, but difficult to enforce. Previous U.S. efforts to curb the flow of arms to the Middle East have foundered on U.S. strategic concerns and commitments in the area and the difficulty in obtaining agreement from other arms suppliers to exercise restraint.

The Persian Gulf war created added concerns over the magnitude of the arms race in the Middle East and fostered a growing consensus that the time was ripe for further efforts to curb arms transfers to this region. Initiatives by Members of Congress and President Bush have called for new control mechanisms, including wider exchange of information among supplier nations and adoption of guidelines to encourage restraint on the part of arms suppliers. The five major arms supplier nations (the United States, the United Kingdom, France, the Soviet Union, and China) subsequently agreed on general guidelines for a regional arms control regime during the course of three plenary sessions held in July 1991, October 1991, and May 1992. At the same time, the five parties have reaffirmed the acceptability of "arms transfers conducted in a responsible manner." In a related action, on Dec. 9, 1991, the United Nations General Assembly voted to establish a universal registry of conventional arms, to include international transfers, beginning on Jan. 1, 1992.

Many disincentives remain to implementing an effective arms control regime for the Middle East. Suppliers have strong motives to continue providing arms to the region, including assisting friendly governments, increasing national income, and supporting domestic defense industries. On Sept. 14, 1992, for example, the U.S. Administration notified Congress of its intent to sell a package of 72 F-15XP fighter aircraft to Saudi Arabia, citing the need to augment Saudi air-to-air and air-ground self defense capabilities; the sale also will keep open the F-15 production line, with concomitant benefits to the U.S. economy. Resolutions to block the sale were introduced in both Houses of Congress, but they did not come to a vote before Congress adjourned on October 9. Meanwhile, China suspended its participation in the 5-power arms control discussions in September, following announcement of a U.S. sale of F-16 aircraft to Taiwan.

U.S. decisionmakers will have to weigh the benefits of arms control against other competing considerations: the effect on the national economy and defense industrial base of the United States and of other supplier nations; legitimate defense needs of friendly Middle East states; regional security and peacemaking endeavors; and broader aspects of U.S. global relationships. Congress is likely to continue monitoring further steps by the executive branch in concert with other major arms supplier nations, to restrain arms transfers to the Middle East. Further congressional initiatives are possible if Administration efforts should falter.

LEGISLATION

P.L. 102-138, H.R. 1415
Authorizes appropriations for the Department of State and the U.S. Information Agency. Sets forth U.S. policy with respect to (1) the prosecution of Persian Gulf war criminals; (2) arms control in the Middle East and Persian Gulf region; (3) specified foreign countries; and (4) chemical and biological weapons proliferation. Reported to House by Committee on Foreign Affairs (H.Rept. 102-53) May 8, 1991; passed House by voice vote May 15, 1991; passed Senate (in lieu of S. 1433) by vote of 86- 11 July 29, 1991; conference report (H.Rept. 102-238) agreed to by House by voice vote Oct. 4, 1991, and by Senate by voice vote Oct. 5, 1991; signed into law Oct. 28, 1991.

P.L. 102-391, H.R. 5368 (Obey)
Makes appropriations for foreign operations, export financing, and related programs for fiscal year 1993. Section 565 bans provision of STINGER air defense missiles to states bordering the Persian Gulf, with certain exceptions. Reported by the House Appropriations Committee (H.Rept. 102-385) on June 18, 1992; passed House by vote of 297 to 124 on June 25; 1992; reported by Senate Appropriations Committee on Sept. 23, 1992 (S.Rept. 102-419); passed Senate by vote of 87-12 on Oct. 1, 1992; both Houses agreed to conference report (H.Rept. 102-1011) on Oct. 5, 1992; signed into law Oct. 6, 1992.

H.R. 2508 (Fascell)
Authorizes appropriations for development, economic, and military assistance. Sections 281 through 284 call for a U.S. commitment to a multinational arms transfer and control regime for the Middle East and Persian Gulf region; require annual reports to Congress on arms transfers to the Middle East; and call for other measures to restrain weapons proliferation in the Middle East region. Reported to House by Committee on Foreign Affairs (H.Rept. 102-96) June 4, 1991; passed House by vote of 274- 138 June 20, 1991; Senate passed (in lieu of companion measure, S. 1435) by vote of 74-18 July 26, 1991; Senate agreed to conference report by vote of 61-38 Oct. 8, 1991; House failed to agree to conference report (H.Rept. 102-225) by vote of 159-262 Oct. 30, 1991.

H.R. 2621 (Obey)
Makes appropriations for foreign operations, export financing, and related programs. Section 588 calls for a partial moratorium on transfers of major military equipment to the Middle East, a multinational regime to restrict such transfers, and annual reports to Congress documenting all arms transfers to the Middle East. Reported to House by Committee on Appropriations (H.Rept. 102-108) June 12, 1991; passed House by vote of 301-102 June 19, 1991; referred to Senate Committee on Appropriations June 24, 1991.

Alfred B. Prados

MLC-042

U.S. ASSISTANCE TO THE FORMER SOVIET UNION

...more prominent U.S. role...

The 12 successor states to the Soviet Union are undergoing enormous strain. Their political systems are unstable and their economies are suffering negative growth rates as they make the untested transition from socialism to free market capitalism. Earlier U.S. aid initiatives responding to the decline and dissolution of the Soviet Union had been viewed as piecemeal responses to particular political concerns. The growing problems of the former Soviet Union had provoked a number of observers, including Members of Congress, to call for a more prominent U.S. role in promoting the course of change in the region.

On Apr. 1, 1992, President Bush outlined a comprehensive package of assistance to the former Soviet Union. It included a number of new initiatives that would establish U.S. policy with regard to the states of the former Soviet Union and would provide various forms of assistance to them. To advance these initiatives, the President proposed legislation that would, in the words of Secretary of State Baker, "unite the executive and legislative branches around a bipartisan program that can mobilize the American people" in support of assistance for the former Soviet Union. The Freedom Support Act of 1992 was submitted to Congress on April 3 and introduced as S. 2532 on April 7.

In the Senate, the Foreign Relations Committee marked-up the Administration bill on May 13 with an extensive amendment of its own (S.Rept. 102-292). This bill, S. 2532, was extensively amended before its final adoption by the full Senate on July 2 (76-20). In the House, the Foreign Affairs Committee used a previously introduced aid authorization measure, H.R. 4547, as the basis for its markup on June 10 (H.Rept. 102- 569). On the Floor, H.R. 4547 was amended by substituting the language of a similar bill, H.R. 5750. H.R. 4547 was approved on August 6 and the House

substituted its language for that of S. 2532. A Conference report merging the two versions into a single bill was adopted by the Senate and House on Oct. 1 and Oct. 3, 1992, respectively.

While S. 2532, as enacted, shares many common features with the Administration's request, Congress included a few additional provisions. In addition to providing authority for the conduct of a wide range of humanitarian and technical assistance programs, both include authorization of a U.S. commitment to an earlier agreed $12 billion increase in the U.S. quota to the IMF intended for all countries, but expected to benefit the former Soviet Union; an endorsement of U.S. participation in amounts up to $3 billion for the proposed currency stabilization funds; and elimination of still existing restrictive Cold War trade and aid legislation. Congress added measures establishing a Democracy Corps and expanding broad-based educational exchanges, among other provisions unsought by the Administration.

As enacted, S. 2532 authorizes FY1992 and FY1993 appropriations of $410 million in humanitarian and technical assistance for the states of the former Soviet Union: $70.8 million for business, agricultural, student and other educational exchanges; $25 million for State Department and USIA expenses to set up diplomatic posts and other offices in the republics; up to $15 million to assist democratization through a Democracy Corps; and $12 million to help American businesses set up joint ventures with FSU private businesses. Funding for these activities are contained in a series of appropriations bills for foreign operations, the Department of Defense, and the Departments of Commerce, Justice and State, the Judiciary and related agencies.

LEGISLATION

P.L. 102-228, H.R. 3807

Amends the Arms Export Control Act. Includes provisions that allow up to $400 million of FY1992 appropriated Department of Defense funds to be used to assist Soviet and any successor entities to transport, safeguard, and destroy nuclear, chemical, and biological weapons, and up to $100 million of appropriated Department of Defense funds to transport humanitarian assistance to the Soviet Union and its successor entities. Signed into law Dec. 12, 1991.

P.L. 102-266, H.J.Res. 456

Makes further continuing appropriations for FY1992. Repeals Stevenson- Byrd amendments restricting Export-Import Bank credits to the former Soviet Union. Provides authority to reprogram up to $150 million of ESF for humanitarian and technical assistance. Signed into law Apr. 1, 1992.

P.L. 102-391, H.R. 5368

Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993. Appropriates $417 million for humanitarian and technical assistance to the former Soviet Union. Earmarks at least $50 million of total funds for scholarship programs and no more than $12 million for American Agribusiness Centers. Also appropriates $12 billion for an increase in the U.S. quota to the IMF, expected to benefit the FSU, and conditions non-humanitarian aid for Russia on making significant progress in removing its troops from the Baltic states. Reported by House Appropriations Committee June 18 (H.Rept. 102-585); approved by House June 25 (297-124). Reported by Senate Appropriations Committee Sept. 23 (S.Rept. 102-419); approved by Senate Oct. 1 (87-12). Signed into law Oct. 6, 1992.

P.L. 102-395, H.R. 5678

Departments of Commerce, Justice and State, the Judiciary and Related agencies Appropriations Act, 1993. Appropriates $20 million for the State Department and $5 million for USIA to set up new diplomatic posts in the former Soviet Union and funds educational and cultural exchange programs. Signed into law Oct. 6, 1992.

P.L. 102-396, H.R. 5504

Department of Defense Appropriations Act, 1993. Provides up to an additional $400 million for activities authorized in the Former Soviet Union Demilitarization Act of 1992: at least $10 million for the study, assessment and identification of nuclear waste disposal in the Arctic region, and at least $25 million for Project Peace; and up to $50 million for the Multilateral Nuclear Safety Initiative, $40 million for demilitarization activities, $15 million for military to military contacts, $25 million for joint research and development activities, and $10 million for the Volunteers in Peace and Security. Signed into law Oct. 6, 1992.

P.L. 102-484, H.R. 5006

Authorizes appropriations for Department of Defense for FY1993. Provides additional $250 million for Nuclear Threat Reduction Act of 1991 to assist in destruction of Soviet weapons and activities to reduce potential for proliferation. Authorizes up to $25 million to fund civilian research and development projects between U.S. and Soviet scientists, and up to $25 million for Project Peace. Authorizes no more than $10 million to establish Volunteers Investing in Peace and Security program, providing technically skilled retired members of armed services to assist in infrastructure needs of former Soviet Union. Authorizes up to $10 million for nuclear waste disposal activities and up to $15 million for military- to-military contacts. Conference report passed House and Senate and cleared for White House, Oct. 5, 1992. Signed into law Oct. 23, 1992.

P.L. 102-511, S. 2532/H.R. 4547

Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act. Authorizes appropriations for foreign assistance to the FSU for FY1992 and 1993. S. 2532 reported by Senate Foreign Relations Committee June 2, 1992 (S. Rept. 102-292); approved with amendments (76-20), July 2. H.R. 4547 reported by House Foreign Affairs Committee June 16 (H.Rept. 102- 569); approved (255-164)

with the House substituting its language for that of S. 2532 on August 6. Conference report on S. 2532, which included H.R. 4547 provisions, filed September 30; passed Senate Oct. 1 and House Oct. 3, 1992. Signed into law Oct. 24, 1992.

P.L. 102-565, S. 3309

Peace Corps Reauthorization. Authorizes appropriations for Peace Corps for FY1993. Provides up to $6 million to establish Small Business Development Programs in the FSU that will contribute technical assistance and training in municipal restructuring and financing, privatization, and other activities to support local economic development. Passed Senate Oct. 2; passed House and cleared for White House Oct. 6, 1992. Signed into law Oct. 28, 1992.

Curt Tarnoff

MLC-043

U.S. POLICY TOWARD CUBA

...tightened restrictions on U.S. trade...

While Congress continued funding for Radio and TV Marti programming to Cuba, passed resolutions condemning Cuban human rights abuses, and called upon the former Soviet states to reduce assistance to Cuba, the main action by the 102d Congress was passage of the Cuban Democracy Act of 1992, which became Title XVII of the National Defense Authorization Act for FY1993. Stimulated by the dramatic changes in Eastern Europe and the Soviet Union that sharply reduced the trade, assistance, and ideological support to which Cuba was accustomed, a bipartisan group in Congress sought to increase pressure for a peaceful transition in Cuba. The measure tightened the restrictions on U.S. trade with Cuba under the embargo in effect since 1960, but it promised significantly improved relations once Cuba moved toward democratic elections. It was an important tactical shift in U.S. policy toward the island, and it was a modification pushed by the legislative, not the executive, branch.

Initial versions of the Cuban Democracy Act of 1992 -- H.R. 4168 (Torricelli) and S. 2197 (Graham) -- were introduced in the House and Senate on Feb. 5, 1992. The central element of the legislation was to ban trade with Cuba by subsidiaries of U.S. firms in foreign countries (which had been permitted since 1975), and to impose a variety of sanctions on countries trading with Cuba, while expanding mail and telecommunications links with Cuba. Sponsors said the legislation provided a new policy, with a combination of carrots and sticks, that would present Castro's Cuba with "a dearth of financial resources and a flood of ideas." Critics, arguing that the legislation would harden attitudes in Cuba, called for a reduction of pressures to encourage Castro to engage in a dialogue with dissidents and friendly countries, while some argued for relaxing trade restrictions on food and medicines to ease the hardships of the people. Others argued that subsidiaries of U.S. firms would be harmed financially while Cuba would be able to purchase similar goods from non-U.S. firms.

The Bush Administration, while supporting efforts to promote democracy in Cuba, initially objected to several of the provisions on grounds that they would cause difficulties with U.S. allies and with the countries of the former Soviet Union. However on Apr. 18, 1992, President Bush implemented several of the provisions by executive order. He barred foreign ships that stop at Cuban ports from docking in U.S. ports within 6 months, and he announced plans to permit the shipment of humanitarian packages on air charter services.

Revised versions of the Act (H.R. 5323 and S. 2918) were introduced in June and July 1992, with some softening of provisions that permitted the President to determine whether or not to apply sanctions against countries providing concessional assistance to Cuba. With broad bipartisan support, including the support of President Bush and challenger Clinton, the modified measures were approved by the Congress. The revised version of the bill, with certain tax provisions deleted, was approved by the Senate on Sept. 18, 1992, as an amendment to the National Defense Authorization Act for FY1993 (H.R. 5006), and was subsequently enacted into law. The House also passed H.R. 5323 by a vote of 276-135 on Sept. 24, 1992, under suspension of rules requiring a two thirds vote.

The Cuban Democracy Act of 1992, as passed, increases pressure on Castro principally by prohibiting subsidiaries of U.S. firms in foreign countries from trading with Cuba, by prohibiting ships that trade at Cuban ports from docking in U.S. ports within 6 months, by restricting amounts that Americans can remit to Cuba to finance the travel of Cubans to the United States, and by providing for civil penalties for violations of the embargo. It opens channels for greater communication with the Cuban people by providing for upgraded telephone service, direct mail service, and assistance for dissidents and democratic organizations in Cuba. It also offers to provide food and assistance to any transitional regime committed to early elections, and promises to provide a full range of benefits to a democratically elected government.

LEGISLATION

P.L. 102-484, H.R. 5006

National Defense Authorization Act for FY1993, with Title XVII of the Act being the Cuban Democracy Act of

1992. H.R. 5006 was reported to the House from the House Committee on Armed Services on May 19, 1992 (H.Rept. 102-527), and it was passed by the House on June 5, 1992. The Senate adopted a slightly modified Amendment 3079 (Graham) to add the Cuban Democracy Act (see below) to H.R. 5006, on Sept. 18, 1992, following rejection (61-24) of a motion to table the amendment. The House-Senate conference report (H.Rept. 102-966) was filed on Oct. 1, 1992, retaining the Cuban Democracy Act as approved by the Senate with minor modifications. Following approval of the conference report by the House and Senate, on Oct. 3 and 5, respectively, the measure was signed into law Oct. 23, 1992.

H.R. 5323 (Torricelli)/S. 2918 (Graham)

Cuban Democracy Act of 1992. Following hearings by two subcommittees of the House Foreign Affairs Committee in mid-1991, early versions of this legislation (H.R. 4168, Torricelli/S. 2197, Graham) were introduced on Feb. 5, 1992. After additional hearings by the House Foreign Affairs Committee in mid- 1992, a second version of the act (H.R. 5323, Torricelli) was introduced in the House on June 4, 1992, and referred to five committees. It was reported out by the Foreign Affairs Committee on June 5, 1992 (H.Rept. 102-615, Part 1) and by the Committee on Merchant Marine and Fisheries on July 28, 1992 (H.Rept. 102- 615, Part 2). The House considered a slightly modified version under suspension of rules requiring a two thirds vote on Sept. 22, and voted 276-135 to approve H.R. 5323 on Sept. 24, 1992. A second version of the act (S. 2918, Graham) was introduced in the Senate on July 1, 1992, and hearings were held by the Senate Foreign Relations Committee on Aug. 5, 1992. The Senate adopted an amendment on Sept. 18, 1992, to add the act to H.R. 5006, the National Defense Authorization Act for FY1993 (see above).

K. Larry Storrs

MLC-044

YUGOSLAVIA CRISIS AND U.S. POLICY

...little hope of an early solution...

A secession crisis and prolonged inter-ethnic fighting pushed Yugoslavia into the final crisis of its turbulent history. A patchwork, Yugoslavia comprised six major nationalities -- Serbian, Croatian, Slovenian, Montenegrin, Macedonian, and Albanian -- as well as over a dozen other distinguishable ethnic and national groups. This heterogeneity was reinforced by major historic, cultural, linguistic, and religious diversity. From the country's inception in 1918, Yugoslav history has been marked by recurring tension between Serbian efforts to dominate a centrally controlled state and other groups' attempts to assert their autonomy in a looser political structure.

The current crisis has seen three stages thus far. First, the army, acting partly under federal government orders, attempted to seize border posts held by Slovene forces on June 27 and 28, 1992, meeting fierce resistance from Slovene defenders. On July 7, a European Community- mediated agreement was reached that required a withdrawal of the army from Slovenia in exchange for a 3-month suspension of the republic's independence declaration. As fighting between Slovenia and the army ended, fighting between Serbs and Croats in Croatia intensified, resulting in over 10,000 deaths since June 25. Serbian rebels are in control of nearly one- third of Croatia, and have split the eastern region from the rest of the republic. The deployment of a U.N. peacekeeping force in Croatia has led to a halt to the fighting, but holds out little hope of an early solution to the underlying causes of the crisis.

Moves by the army and ethnic Serbs in Bosnia-Hercegovina have touched off a third phase in the fighting. As in Croatia, local Serbs have proclaimed the secession of the regions that they inhabit from a newly independent Bosnia- Hercegovina. Ethnic Serbian militiamen, with material support from Serbia, have also attacked Muslim majority areas bordering Serbia and the ethnically mixed republic capital of Sarajevo. They have seized about two-thirds of the republic's territory. The Bosnian government estimates that more than 40,000 people have died in the fighting so far and nearly two million people made homeless.

The United Nations Security Council imposed sweeping sanctions against the remaining Yugoslav republics of Serbia and Montenegro on May 30, 1992, banning all trade with Serbia and Montenegro except for medicine and humanitarian aid. NATO and the Western European Union (WEU) have begun to monitor compliance with the U.N. sanctions in the Adriatic Sea. Slovenia, Croatia, and Bosnia- Hercegovina, but not Macedonia, have been recognized as independent states, and are members of the United Nations and the Conference on Security and Cooperation in Europe (CSCE). A 14,000-strong peacekeeping operation, the U.N. Protection Force (UNPROFOR), has been deployed in Croatia, but heavy fighting in Bosnia-Hercegovina has increased calls for much greater international involvement and perhaps even military intervention. In July 1992, UNPROFOR was expanded to secure Sarajevo airport for delivery of humanitarian assistance.

While the Yugoslavia crisis no longer raises the specter of superpower confrontation, as it would have in the days of the Cold War, the war in Yugoslavia poses a threat to European security and represents a matter of concern for U.S. policymakers. Appalled by the atrocities and expulsions committed by Serb forces

to "ethnically cleanse" most of Bosnia-Hercegovina of non-Serbs, some have called for U.S. and Western intervention in the conflict on humanitarian grounds. Others fear that the fighting could draw in neighboring countries, destabilizing the region. More generally, the turmoil in Yugoslavia has posed a severe test of the ability of the European countries and the United States to build a "new Europe" in which political disputes are settled peacefully and basic human rights and democratic institutions prevail.

Members of Congress have expressed dismay at the violence in the former Yugoslavia and the atrocities that are being committed primarily by Serb forces in Bosnia-Hercegovina. The House and the Senate have each passed non-binding resolutions asking the United Nations to consider the use of force to enforce compliance with U.N. resolutions on Bosnia- Hercegovina. The Senate passed a bill that calls for sanctions against Serbia and Montenegro. In the final weeks of the session, Congress passed a bill denying Most Favored Nation trading status to Serbia and Montenegro unless specified conditions were met. Congress also approved amendments to the Foreign Operation appropriations bill that provides $20 million of humanitarian assistance to Croatia, Bosnia- Hercegovina and the Serbian province of Kosovo and authorizes the President to supply $50 million in military aid to the government of Bosnia-Hercegovina, if the U.N. arms embargo is lifted on deliveries to Bosnia-Hercegovina government forces.

LEGISLATION

P.L. 102-391, H.R. 5368

Earmarks $20 million for donations of fuel, construction materials, portable heating, dairy products, wheat and other food for the peoples of Bosnia-Hercegovina, Croatia and the Serbian province of Kosovo. Not less than $5 million of this amount are earmarked for Kosovo. The legislation also authorizes the President to provide up to $50 million in military aid to the government of Bosnia-Hercegovina, if the UN agrees to lift the arms embargo for Bosnia-Hercegovina government forces. Amendments containing these provisions were agreed to by the Senate by voice vote on September 30. They were retained by a House-Senate conference committee, and the bill was agreed to by the House on Oct. 5, 1992 by a vote of 312-105. The Senate approved the legislation by voice vote the same day. Signed into law Oct. 6, 1992.

P.L. 102-420, H.R. 5258

Suspends Most Favored Nation (MFN) trading status for Serbia and Montenegro. Authorizes the President to restore MFN to Serbia and Montenegro 30 days after certifying that these two countries had ceased its armed conflict with the other peoples of the former Yugoslavia, had agreed to respect the borders of the ex-Yugoslav republics and ended their support for ethnic Serbian forces in Bosnia-Hercegovina. Passed House by voice vote on Sept. 22, 1992. Passed Senate with amendments on Sept. 30, 1992 by voice vote. House agreed to the Senate amendments by voice vote on Oct. 6, 1992. Signed into law Oct. 16, 1992.

H.Res. 554 (Hoyer)

Contains provisions similar to S. Res. 330, but does not mention the lifting of the arms embargo against Bosnia-Hercegovina or urge Congress to promptly consider authorization of U.S. military forces, if requested by the President, for protecting U.N. humanitarian convoys.

S. 2743 (Pell)

Bars all aid to Serbia and Montenegro, requires the President to oppose multilateral aid to these two republics and suspends air travel with Serbia and Montenegro. Urges the President to negotiate comprehensive trade sanctions against the two republics through the United Nations. Authorizes the President to apply the sanctions against other republics of the former Yugoslavia that are directly or indirectly involved in aggression against a neighbor for the purpose of changing its borders. Reported to the Senate by the Committee on Foreign Relations on May 20, 1992; passed Senate by a vote of 99-0 on May 21, 1992.

S.Res. 306 (Levin)

Calls on the President to urge the United Nations Security Council to plan and budget for such intervention as may be necessary to enforce UN Security Council resolutions seeking an end to hostilities in the countries of the former Yugoslavia. Reported by the Senate Foreign Relations Committee on June 11, 1992. Passed Senate by voice vote on June 12, 1992.

S.Res. 330 (Pell)

Calls on the President to immediately call for an emergency meeting of the United Nations Security Council in order to authorize the use of all necessary means, including the use of military force to implement a United Nations-sponsored effort to provide humanitarian relief in Bosnia-Hercegovina and a UN plan to place heavy weapons belonging to all factions under UN supervision. Asks the Security Council to take steps to ensure that UN and International Red Cross personnel shall be granted access to refugee and prisoners of war camps in all of the republics of the former Yugoslavia; review the effects on Bosnia-Hercegovina of the UN arms embargo imposed on all states in the former Yugoslavia and determine whether the termination or suspension of the embargo in Bosnia-Hercegovina could result in increased security for the civilian population of that country; and determine how to convene a tribunal to investigate allegations of war crimes and crimes against humanity committed within the territory of the former Yugoslavia. States that the Congress should promptly consider authorization for any use of United States military forces pursuant to United Nations authorization described above when asked by the President. Reported by the Senate Foreign Relations Committee on Aug. 6, 1992. Passed by the Senate by a vote of 74-22 on Aug. 11, 1992.

Steven J. Woehrel

GOVERNMENT AND POLITICS

MLC-045

CONGRESSIONAL REFORM

...Congress creates joint committee on reorganization...

The basis for much of the current congressional system lies in the 1946 Legislative Reorganization Act. A comprehensive review of Congress' organization, operations, and processes has not occurred since 1965, although congressional groups have since conducted reform studies and changes have been incrementally adopted.

A proposal to create a joint committee to comprehensively examine congressional operations passed the House and Senate in the summer of 1992 (see *Legislation* below). The committee is called upon to study and report, by December 1993, its recommendations in six broad areas: structure, procedure, leadership, resources, and inter-chamber and inter- branch relations.

Structural concerns largely center on the committee system in each house. Critics charge that committees are too numerous, too large, too often bypassed, their jurisdictions outdated, their workloads imbalanced, and Members stretched too thin because of the multiple and competing demands committee work imposes on their schedules. Policy overlaps among committees are seen to foster conflicts that can lead to deadlock and invite leaders to resort to ad hoc arrangements in order to arrive at policy agreements in areas of controversy and jurisdictional competition. Multiple referrals in the House, once seen as part of the answer to the subject-matter fragmentation among committees, are sometimes criticized as part of the problem. Proposed solutions include consolidating and stream- lining the committee system and better enabling the leadership to set the legislative agenda.

Procedural concerns have a dual focus: arcane processes that contribute to inefficiencies are viewed as intolerable in a climate believed to require Congress to act ever more expeditiously. On a related track are concerns that the Senate's tradition of preserving the rights of the individual Member creates too much accommodation and delay while the House's tradition of majority rule is exercised in a way that overly curbs Members' rights. Critics call for balancing these in each house.

Management issues revolve around the administrative systems in the House and Senate and the extent and nature of benefits and allowances available to Members. Proposed solutions call for instituting a modern management system and conditioning benefits on their necessity to the conduct of official responsibilities. On Apr. 9, 1992, the House adopted H.Res. 423, creating a House administrator and inspector general and turning House postal operations over to the Postal Service.

Perceptual problems relate to poor public understanding of, and support for, Congress as an institution. Remedial proposals include altering the congressional campaign financing system, imposing term limits, or taking other steps to improve Congress' image.

Inter-chamber conflicts often relate to the conference committee process and proposals to fix it. Inter-branch conflicts are seen as intensified due to protracted divided control of the National Government. On the one hand this has invited proposals to augment congressional oversight, on the other to empower the President with tools like the item veto. Executive branch perquisites may also be trimmed back.

(For more information, see CRS Issue Brief 92066.)

LEGISLATION

H.Con.Res. 192 (Hamilton/Gradison)/S.Con.Res. 57 (Boren/Domenici)

Created a bipartisan 28-member joint committee to study Congress and recommend reforms. Both bills introduced July 31, 1991; referred to respective Committees on Rules. Senate Committee on Rules and Administration held hearing Nov. 19, 1991. Hearings by House Rules held May 21, 1992; reported to House (H.Rept. 102-550) June 5. H.Con.Res. 192 passed House June 18, 1992, by vote of 412-4. Senate passed substitute version by voice vote on July 30. House agreed to Senate amendment by voice vote on Aug. 6, 1992. Senator Boren and Representative Hamilton appointed as co-chairs. Republican House members named August 10 (Gradison as Vice Chair, Walker, Solomon, Dreier, Emerson, and Allard). Republican Senate members named September 26 (Domenici as Vice Chair, Kassebaum, Lott, Stevens, Cohen, and Lugar). Other Democratic House members named October 9 (Obey, Swift, Gejdenson, Spratt, and Holmes-Norton). Other Democratic Senate members also named Oct. 9, 1992 (Ford, Pryor, Reid, Sarbanes, and Sasser). Majority and minority leaders in the House (Gephardt, Michel) and Senate (Mitchell, Dole) are ad-hoc members.

Fred Pauls and Judy Schneider

MLC-046

FEDERAL EMPLOYEE PAY ISSUES

...implementation of the 1990 pay law proceeds...

A fundamental change in the mechanism for setting and adjusting pay for Federal white-collar workers covered by the General Schedule was legislated by the 101st Congress when it enacted the Federal Em-

ployees Pay Comparability Act of 1990 (FEPCA). FEPCA was incorporated as Section 529 of the Treasury, Postal Service, and General Government Appropriations Bill for 1991 (P.L. 101-509). Four issues have been predominant as implementation of the statute proceeds: interim locality-based pay adjustments, pay for performance, reform of the Federal prevailing rate wage system that covers blue-collar workers, and establishment of separate pay and classification systems for law enforcement officers.

Pay adjustments based on locality are a significant feature of the FEPCA statute. Under the law, these adjustments will be implemented in all areas where the gap between non-Federal and Federal pay exceeds 5%, beginning in January 1994. In the interim, the Act authorizes the President to establish geographic adjustments of up to 8% selectively. In an Executive order issued Dec. 12, 1990, President Bush announced that the consolidated metropolitan statistical areas (CMSA's) of New York, Los Angeles, and San Francisco would receive 8% locality-based pay adjustments. Several bills were introduced in the 102d Congress to extend similar adjustments to Federal workers in other major metropolitan areas such as Baltimore, Chicago, San Diego, and Washington, D.C., but were not enacted.

The House and Senate reports that accompanied H.R. 2622, the Treasury, Postal Service, and General Government Appropriations Act for 1992 (P.L. 102-141), directed the Office of Personnel Management (OPM) to study pay disparities in other areas and recommend to the President those additional areas that might receive interim geographic adjustments. In its December 1991 report, OPM concluded that none of the fifteen cities it surveyed had the high Federal quit rates, large proportion of employees receiving special salary rates, and below average unemployment that the Los Angeles, New York, and San Francisco CMSA's were experiencing. Consequently, OPM recommended that the 8% interim adjustments be continued in those CMSA's but not be extended to additional locales.

Public Law 102-378 (H.R. 2850) included technical and conforming changes to FEPCA and mandated that the report of the President's Pay Agent, comparing General Schedule and non-Federal pay rates within each locality, may be submitted not later than one month before the start of the calendar year for which it has been prepared. Additionally, the law provided the Bureau of Labor Statistics with additional flexibility to determine how frequently it will conduct the locality-based pay surveys. Congress mandated, however, that the surveys shall, to the greatest extent practicable, be completed at least 4 months before the start of the calendar year for which they are conducted.

The FEPCA law also created a Pay for Performance Labor-Management Committee to advise OPM on the design and establishment of systems to strengthen the link between the performance of Federal employees and their pay. The Committee submitted its report to OPM on Nov. 5, 1991. The report's principal conclusion was that extensive and comprehensive experimentation of a variety of programs tailored to the needs of specific Federal agencies precede any governmentwide implementation of a new pay- for-performance system for General Schedule (GS) employees. At the same time that the Labor-Management Committee was deliberating, the Performance Management and Recognition System (PMRS) Review Committee was discussing improvements to the PMRS system that covers Federal managers and supervisors in General Schedule grades 13 through 15. This Committee also issued a report in November 1991 recommending, among other changes, that agencies be given the discretion to extend merit pay to managers and supervisors who are below grade 13 and to reprogram funds internally to provide additional funding for their merit pay programs.

Reform of the Federal prevailing rate system (also known as the Federal Wage System (FWS)) that covers blue-collar workers arises as an issue because that pay system is currently a locality-based one, designed to award pay increases to workers on the basis of the prevailing wage in their particular wage areas. Since FY1979, however, the annual adjustment to blue-collar pay rates has been capped at the percentage increase awarded to white-collar GS employees, regardless of what the local wage survey might show as the actual percentage lag. This circumstance, combined with the fact that GS workers will be getting locality adjustments, prompted legislation to be introduced in the 102d Congress to remove the pay cap on the wage-grade system. None of the bills received action, however. The Treasury, Postal Service, and General Government Appropriations Act for 1993 (P.L. 102-393) continues the pay cap. However, the Senate report that accompanied these appropriations for 1992 (P.L. 102-141) directed OPM to study the pay problems within the Federal prevailing rate system and report to the House and Senate Appropriations Committees an estimate of the cost of gradually phasing out the pay cap beginning in FY1993. OPM's report, issued in June 1992, projected a phaseout cost for the first year (FY1993) at $289 million. The report also recommended a restructuring of the FWS that would include changes such as including State and local government pay data in the FWS surveys, prohibiting the use of data from outside a wage area in those FWS surveys, and conducting full-scale wage surveys every 3 years.

FEPCA also mandated that OPM submit a plan to Congress by Jan. 1, 1993, for a separate pay and classification system for law enforcement officers. Additional authority was provided to OPM to consider establishing special occupational pay systems for other positions, such as those in the health care field. OPM has created two separate task forces to evaluate a number of options surrounding pay systems for these occupations, including the range of positions that would be included under them.

LEGISLATION

P.L. 102-378, H.R. 2850

Technical and Miscellaneous Civil Service Amendments Act of 1992. Makes miscellaneous and conforming amendments to the Federal Employees Pay Comparability Act of 1990, Federal Pay Comparability Act of 1970, and the Ethics in Government Act of 1978 in order to correct technical errors. Introduced July 10, 1991; referred to Committee on Post Office and Civil Service, Subcommittee on Compensation and Employee Benefits. Ordered to be reported, amended, Mar. 11, 1992. Passed House by voice vote March 17. Reported to Senate, amended and without written report, June 30. Passed Senate, amended, by voice vote August 6. House agreed to Senate amendment without objection September 22. Signed into law Oct. 2, 1992.

P.L. 102-393, H.R. 5488

Treasury, Postal Service, and General Government Appropriations Act, 1993. Original bill reported from House Appropriations Committee (H.Rept. 102- 618) June 25, 1992. Passed House (237-166) July 1. Reported to Senate from Senate Appropriations Committee (S.Rept. 102-353) July 31. Passed Senate (82- 12) September 10. Conference report (H.Rept. 102-919) agreed to in House (291- 126) and Senate (by voice vote) October 1. Signed into law Oct. 6, 1992.

P.L. 102-141, H.R. 2622

Treasury, Postal Service, and General Government Appropriations Act, 1992. Original bill reported from House Appropriations Committee (H.Rept. 102- 109) June 12, 1991. Passed House (349-48) June 18. Passed Senate (91- 8) July 18. Conference report (H.Rept. 102-234) agreed to in House and Senate by voice votes October 3. Signed into law Oct. 28, 1991.

Barbara L. Schwemle

MLC-047

GOVERNMENTAL ETHICS REFORM

...efforts to relax honoraria ban for some fail...

Honoraria. During the 102d Congress, an attempt was made to relax, under certain conditions, for rank and file Government employees and some senior officials, the governmentwide honoraria ban enacted in the Ethics Reform Act of 1989 and effective in January 1991. In the closing days of the first session, the House on Nov. 25, 1991, passed H.R. 3341, under suspension of the rules. This measure was one of several pending bills and was sponsored by Representative Frank. It would have established three categories of Government officers and employees for purposes of the honoraria ban.

The first group consisted of all career employees at any salary level and noncareer employees classified at GS-15 or below, or whose basic rate of pay is less than 120% of the minimum of the GS-15 pay rate (currently $77,079). These employees could accept an honorarium if it meets a three- pronged test: (1) the subject for which the honorarium is paid does not relate primarily to the policies or programs of the employing office and does not involve the use of Government resources or nonpublic information; (2) the reason for the honorarium is unrelated to the employee's official duties or status; and (3) the person offering the honorarium has no interests that may be substantially affected by the employee's performance of duties.

The second group, senior-level noncareer officers and employees, could accept honoraria meeting the above criteria, subject to certain notification and disclosure requirements. This category includes employees classified above GS-15 or whose basic rate of pay equals or exceeds 120% of the minimum GS-15 rate (currently $77,079), earning up to Executive Level V (currently $104,800).

Members of Congress, judges, and the highest ranking noncareer officers and employees in all three branches of the Government (i.e., those whose basic rate of pay equals or exceeds the rate payable for Level V of the Executive Schedule) comprise the third group. The honoraria ban would continue to apply to them.

H.R. 3341, which would have continued the $2,000 limit in prior law on any single honorarium, did not pass the Senate. A similar measure, S. 242, was reported by the Senate Governmental Affairs Committee (S.Rept. 102-29) in April 1991.

During the first session of the 102d Congress, one honoraria-related measure became law. The FY1992 Legislative Branch Appropriations Act (P.L. 102- 90), enacted Aug. 14, 1991, included Senators as well as Senate officers and employees in the outside earned income/honoraria provisions of the Ethics Reform Act of 1989 that applied to the rest of the Government. That is, no Member of Congress, Federal judge, or any other officer or employee of the Government (other than enlisted military personnel) may earn honoraria (i.e., money from a speech, appearance, or article) or earn stipends (payment for a series of speeches, appear-

ances, or articles related to their work or position in the Government). In addition, Members of Congress, judges, and designated officers and employees of the Government (i.e., those compensated in excess of 120% of the minimum rate of a GS-15, currently $77,079) are limited in other outside earned income (currently to $19,425 annually) and in types of outside employment, such as those involving a fiduciary relationship.

Prior to the enactment of P.L. 102-90, several attempts were made to ban honoraria in the Senate and have the provisions of the Ethics Reform Act apply to Members, officers, and employees of the Senate. Among those was an amendment to the Senate Election Ethics Act (S. 3). On May 21, 1991, the Senate agreed (72-24) to a proposal by Senator Dodd to apply to the Senate the same outside earned income and honoraria limitations that apply to the rest of the Government. That same day, the Senate passed the Moynihan/Garn amendment to also limit unearned income. S. 3 passed the Senate, amended, on May 23, 1991. It was subsequently vetoed.

The issue of honoraria has also been in the spotlight in the judicial branch. Several executive branch employees have filed suit against the Office of Government Ethics, which has the responsibility of enforcing the honoraria prohibition in the executive branch. They seek to overturn the ban, charging that the Act infringes on employees' First Amendment rights. That case is still pending.

Salaries and Gifts. Included in P.L. 102-90, which applied the outside earned income/honoraria provisions of the Ethics Reform Act to the Senate, was another provision that adjusted the salaries of Senators to the same level as that of Representatives. The law also created uniform gift restrictions rules in the House and Senate and amended the public financial disclosure provisions of the Ethics in Government Act of 1978 (P.L. 95-521) relating to the disclosure of gifts.

(For further information, see CRS Archived Issue Brief 89134.)

LEGISLATION

P.L. 102-90, H.R. 2506

1992 Legislative Branch Appropriations Act. Adjusted salaries of Senators to the level of Representatives; applied to the Senate the same honoraria ban and outside earned income limitations that apply to the rest of the Government; brought into conformity the House and Senate gift rules; and changed the governmentwide requirements for the disclosure of gifts and reimbursements. Passed House, amended, June 5, 1991; reported from Senate Appropriations Committee (S.Rept. 102-81) June 12. Passed Senate, amended, July 17. Conference report (H.Rept. 102-176) passed House July 31 and Senate August 2. Signed into law Aug. 14, 1991.

H.R. 3341 (Frank)

Amendments to the Ethics in Government Act of 1978 and the Ethics Reform Act of 1989. Permits career and noncareer officers and employees governmentwide to earn honoraria under conditions that meet a three-pronged test; those classified at above GS-15 or whose pay equals or exceeds 120% of the minimum of GS-15 pay rate are also subject to notification and disclosure requirements. Continues to prohibit honoraria earnings by Members of Congress, judges, and all governmentwide noncareer officers and employees whose rate of annual pay equals or exceeds Level V of the Executive Schedule (currently $104,800). Introduced Sept. 16, 1991; referred to Committees on Armed Services; Judiciary; Post Office and Civil Service; and House Administration. Reported by Judiciary Committee (H.Rept. 102-385, Part I) and passed House, amended, Nov. 25, 1991.

Mildred L. Amer

MLC-048

KEATING FIVE INVESTIGATION

...controversial case prompted new Senate rule...

The "Keating Five case" refers to the Senate Select Committee on Ethics' investigation of five Senators' intervention on behalf of a failed savings and loan.

On Nov. 17, 1989, the Senate Select Committee on Ethics voted to hire a special outside counsel to assist in determining whether it should begin a formal investigation of Senators Alan Cranston (D-CA), Dennis DeConcini (D-AZ), John Glenn (D-OH), John McCain (R-AZ), and Donald Riegle (D-MI) and allegations that they improperly intervened with Federal banking regulators on behalf of Lincoln Savings and Loan. On Dec. 21, 1989, the committee voted to conduct Preliminary Inquiries.

In the course of the Preliminary Inquiries, the Select Committee on Ethics held public hearings over a 2-month period that began on Nov. 15, 1990. On Feb. 27, 1991, it issued a published statement in which it determined that Senators Glenn and McCain had "exercised poor judgment," but had "violated no law of the United States or rule of the United States Senate." Accordingly, it concluded that no further action was warranted. The committee stated that the conduct of Senators Riegle and DeConcini, while giving the "appearance of being improper..., did not reach a level requiring institutional action." The committee emphasized, however, that it did not "condone" their conduct. The committee further found that "there is substantial, credible evidence that provides substantial cause for it to conclude that Senator Cranston may have engaged in improper conduct reflecting upon the Senate." Accordingly, it voted to proceed to an investigation.

On Nov. 20, 1991, the Committee issued a report (S.Rept. 102-223) in the name of the Senate in which it "strongly and severely" reprimanded Senator Cranston. That same day the Senate heard, but did not vote on, the Committee sanction that was a compromise between Senators who wanted censure and those who did not think floor action was warranted. Although Senator Cranston accepted the Committee's reprimand, he denied most of the charges against him.

In addition to the Committee's action regarding the five Senators, the report urged comprehensive campaign finance reform as well as adoption by the Senate of written standards covering contact or intervention with Federal executive or independent regulatory agency officials. On Apr. 16, 1991, the Senate leadership appointed Senators Wendell Ford and Ted Stevens as chairman and vice chairman of a six-member bipartisan task force on constituent service reform.

On Mar. 19, 1992, Senators George Mitchell and Robert Dole introduced the task force's recommendations (S.Res. 273), a proposed Senate rule to guide Members, officers, and employees of the Senate in discharging the representative function of Members with respect to communications from petitioners. The resolution creating Senate Rule 43 was adopted on July 2, 1992.

LEGISLATION

S.Res. 273 (Mitchell and Dole)

Adds Rule 43 to the rules of the Senate and provides guidelines to ensure proper conduct by Members, officers, and employees of the Senate in fulfilling their constitutional responsibilities with respect to communications with Federal agencies and officials on behalf of constituents and other citizens who petition the Government for a redress of their grievances. Introduced Mar. 19, 1992; referred to Rules Committee. Reported June 18 (no written report) and agreed to on July 2, 1992.

Mildred Amer

MLC-049

POLITICAL ACTIVITY AND THE CIVIL SERVICE: AMENDING THE HATCH ACT

...measures tabled but reintroduction expected...

In 1939 Congress legislated neutrality and impartiality for the Civil Service when it passed the prohibition on partisan political activities known as the Hatch Act. In 1992 Congress revisited, as it has in almost every year since the Act's enactment, the issue of whether or not Federal employees should have their rights to take an active part in political activities broadened.

Political activity rights and restrictions on political coercion of Federal, Postal Service, and Postal Rate Commission employees were addressed in two bills (H.R. 20, S. 914) introduced in the House and Senate, respectively, in the 102d Congress. While both measures would have prohibited political activity on duty, they differed with regard to the issues of from whom contributions could have been solicited and whether Federal employees could have run for partisan political office. Under the Senate bill, political contributions may have been solicited, accepted, or received only from a member (who is not a subordinate employee) of the same Federal labor or employee organization which had a political action committee in existence as of S. 914's enactment date. Employees would have been allowed to run for partisan political office under the House measure but not under the Senate bill.

H.R. 20 was referred to, but never reported from, the House Committee on Post Office and Civil Service. S. 914 was referred to the Committee on Governmental Affairs where it was subsequently marked up on Mar. 4 and 17, 1992, and ordered to be reported favorably by the Committee on Mar. 17, 1992, by a vote of 7-1. The bill was reported to the Senate with only a title change, to read "Hatch Act Reform Amendments of 1992," on May 5, 1992, but no further action was taken. Congress approved, but failed to override a Presidential veto of, similar legislation in the 101st Congress.

The Hatch Act statute elicits concern because some observers believe that the neutrality requirement impedes the Federal bureaucracy in serving the Administration responsively and inhibits Federal employees from exercising their constitutional rights. Debate focused on several questions: whether the efficiency of the Federal Government and its merit system would be compromised by politically active civil servants, and whether the rights of Federal workers to be free from political coercion and the rights of the general citizenry to be free from arbitrary treatment or political abuses by Federal employees could be adequately protected if Government workers were allowed to be politically active in their private lives.

The Supreme Court has upheld the constitutionality of the Hatch Act on two occasions. However, in its decision in *National Association of Letter Carriers v. United States Civil Service Commission* (413 U.S. 548 (1973)), the Court left the door ajar for Congress to reconsider the neutrality/impartiality standard.

An amendment to the Treasury, Postal Service, and General Government Appropriations Act for 1993 (P.L. 102-393) extends the prohibition on taking an active part in political management or in political campaigns to Federal officers in the Office of National Drug Control Policy who are appointed by the President, by and with the advice and consent of the Senate.

It is likely that Congress will revisit Hatch Act issues in the 103rd Congress.

LEGISLATION

P.L. 102-393, H.R. 5488

Treasury, Postal Service, and General Government Appropriations Act, 1993. Original bill reported from House Appropriations Committee (H.Rept. 102- 618) June 25, 1992. Passed House (237-166) July 1. Reported to Senate from Senate Appropriations Committee (S.Rept. 102-353) July 31. Passed Senate (82- 12) September 10. Conference report (H.Rept. 102-919) agreed to in House (291- 126) and Senate (by voice vote) October 1. Signed into law Oct. 6, 1992.

Barbara L. Schwemle

MLC-050

PRESIDENTIAL VETOES IN THE 102D CONGRESS

...one override...

President George Bush has vetoed a total of 35 bills, 29 being regular or return vetoes and 6 being pocket vetoes. The President, who vetoed 20 bills during the 101st Congress, has thus far vetoed 15 bills passed by the 102d Congress. Congress has attempted to override the President's veto on 22 occasions, but has failed on all except one attempt. The President's veto total at this point (35) ranks him third in comparison to the first terms of the last five Presidents, only exceeded by President's Ford (66) and Reagan (39).

Besides those vetoes noted above, the President has also claimed two additional pocket vetoes. Congress, however, has argued that the bills in question became law without the President's signature and thus were not counted as vetoed.

President Bush has vetoed nearly 3% of the bills presented to him by Congress for his signature, matching the average percentage of vetoes by other Presidents. He has been overridden on only one occasion so far, a better success record than most Presidents who have vetoed legislation. Much has been said about the President's ability to sustain his vetoes. Some have even touted this achievement as proof of the President's ability to govern, and it is certainly a record most Presidents would prefer.

The reality is, however, that it is extremely difficult to override a Presidential veto. Of the 2,503 vetoes cast by Presidents, only 1,448 have been subject to congressional override. The other 1,055 are not constitutionally subject to congressional reversal attempts. Congress has only overridden 104 (7.2%) of all returned vetoes; Presidential vetoes are, on average, sustained 92.8% of the time. If pocket vetoes are included, the average success rate increases to 95.8%. If pocket vetoes are added to President Bush's veto totals, his sustainment rate is 97.1%

President Bush's first veto during the 102d Congress was a claimed pocket veto of H.R. 2699, the District of Columbia Appropriations for FY1992, on Aug. 17, 1991, during a congressional recess. The Senate Library, however, recorded this veto as a regular veto rather than a pocket veto because it was exercised during an August recess and the House had appointed an officer of the House to receive messages from the President. The President rejected H.R. 2699 because it contained a provision allowing locally raised revenues to be used to pay for abortions. Congress made no attempt to override this veto.

The Emergency Unemployment Compensation Act of 1991 prompted President Bush's second veto of the 102d Congress on Oct. 11, 1991. S. 1722 would have provided emergency unemployment compensation benefits for unemployed workers whose benefits had expired under existing laws. The President considered S. 1722 too expensive and said it would undermine the "integrity of the bipartisan budget agreement." He also felt the program and benefits system created by this legislation was too complex and cumbersome to administer properly. The Senate failed to override the veto (65-35) on Oct. 16, 1991.

On Nov. 19, 1991, President Bush vetoed H.R. 2707, the Departments of Labor, Health and Human Services, Education, and Related Agencies Appropriations for FY1992. President Bush vetoed this legislation because it contained a provision that prohibited implementation of the abortion counseling and referral rule. The House attempted to override the veto on Nov. 11, 1991, but failed by a vote of 275-156.

The pocket veto controversy heightened over a declared pocket veto of S. 1176 on Dec. 20, 1991. This legislation created the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation as an independent agency of the executive branch. President Bush disapproved of this legislation because, in his opinion, it unconstitutionally vested authority to make decisions in a Board consisting of five of nine members who would not be appointed by the President. Although the President claimed that this bill was pocket vetoed, Congress rejected that claim and declared S. 1176 a law.

The President asserted that a pocket veto was in order because Congress was in intrasession recess between Nov. 27, 1991, and Jan. 3, 1992, allegedly preventing his return of S. 1176 to the Senate. The Senate countered that since an officer of the Senate was duly appointed by that body to receive messages from the President when the Senate was in recess, the President was not "prevented" from returning the bill.

Congress, however, in rejecting the pocket veto claim of the President, took the position that S. 1176 had become law because the President failed to return the legislation to the Senate under the 10 days, except Sundays, as required by the Constitution. To avoid delaying implementation of this legislation due to a possible legal challenge over the pocket veto issue, the Senate passed similar legislation, S. 2184, on Feb. 4, 1992, and the House followed by passing the legislation on Mar. 3, 1992. S. 2184 is nearly identical to S. 1176, except for providing for Presidential appointment of all Board members and containing an opening clause (Section 2) repealing S. 1176. On Mar. 19, 1992, President Bush signed into law S. 2184 (P.L. 102-259) and effectively repealed S. 1176. Because S. 1176 is considered by Congress to have been a law and since it has been successfully repealed by S. 2184, it is not officially counted in the records of the Senate Library as a Presidential veto.

The fourth veto, then, of the 102d Congress came on Mar. 2, 1992, and involved H.R. 2212, the United States-China Act of 1991. H.R. 2212 would have placed additional conditions on the renewal of China's most-favored- nation trade status. The President said he shared the goals and objectives of the bill, but vetoed it because he objected to the methods it imposed to achieve those objectives. He disapproved of withdrawing favored nation status because, in his opinion, it would only "weaken (China's) ties to the West" by driving China away from the western world. The House overrode this veto (357- 61) on Mar. 12, 1992, but the Senate failed to override (60- 38) on March 18.

H.R. 4210 (Tax Fairness and Economic Growth Act of 1992) would have amended the Internal Revenue Code of 1986 "to provide incentives for increased economic growth and to provide tax relief for families." This bill, in the President's opinion, would have jeopardized the economic recovery, increased taxes, hurt small businesses, and added to the deficit, among other things. The House attempted to override the veto on Mar. 25, 1992, but failed 211-215.

On May 9, 1992, President Bush vetoed S. 3, the Congressional Campaign Spending Limit and Election Reform Act of 1992. This legislation would have amended the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits for Senate and House election campaigns. In President Bush's view, S. 3 would have perpetuated "the corrupting influence of special interests and the imbalance between challengers and incumbents," limited free political speech protected by the First Amendment, and inevitably led "to a raid on the Treasury to pay for the Act's elaborate scheme of public subsidies." The Senate failed to override the veto (57-42) on May 13, 1992.

President Bush's seventh veto occurred on June 16, 1992, when he rejected S. 2342, An Act Amending the Act entitled "An Act to Provide for the Disposition of Funds Appropriated to Pay Judgement in Favor of the Mississippi Sioux Indians in Indian Claims Commission Dockets Numbered 142, 359, 360, 362, and 363." This bill would have waived the statute of limitations to allow a challenge to the 1972 Mississippi Sioux Indian Judgement Fund Act. The President vetoed this bill because he believed "there must be some definite, limited time during which the Government must be prepared to defend itself and some finality to the pronouncements of the courts, the Congress, and the agencies." The President also wanted to avoid what, in his opinion, would be unnecessary, wasteful litigation.

On June 23, 1992, President Bush vetoed H.R. 2507, the National Institutes of Health Revitalization Amendments of 1991. If enacted, this legislation would have authorized appropriations for national research institutes and agencies of the National Institutes of Health, revised some programs and mandated certain studies and reports, among other things. President Bush found H.R. 2507 "unacceptable ... on almost every ground: ethical, fiscal, administrative, philosophical, and legal." The President also seriously objected to a provision lifting the moratorium on fetal tissue transplantation research, fearing that a lifting of the moratorium would promote abortions. The House failed to override the veto (271-156) on June 24, 1992.

President Bush vetoed S. 250, the National Voter Registration Act of 1992, on July 2, 1992. This bill would have established a national voter registration procedure for Federal elections. In the President's opinion, S. 250 would have imposed "unnecessary, burdensome, expensive, and constitutionally questionable Federal regulation on the States in an area of traditional State authority." The President also believed that S. 250 might open up the election process to fraud and corruption while having a minimal impact on voter participation.

On Aug. 22, 1992, President Bush cast his tenth veto of the 102d Congress. The bill in question, S. 5, the Family and Medical Leave Act of 1991, would have entitled employees to family and temporary medical leave while protecting the employee's right to return employment and job benefits. The President objected to this bill because it would have mandated public and private employers to give time off for family illness or childbirth, preferring instead to allow employers to voluntarily offer such leave to their employees. The Senate overrode the veto (68-31) on Sept. 24, 1992. The House failed to override (258-169) on Sept. 30, 1992.

President Bush's eleventh veto occurred on Aug. 25, 1992, and concerned S. 323, the Family Planning

Amendments Act of 1992. This bill would have required that pregnant women receiving assistance under Title X of the Public Health Services Act be provided family planning counseling and information regarding their pregnancies. The President rejected this legislation because it included, among other family planning options, counselling for abortions. The Senate overrode the veto (73-26) on Oct. 1, 1992. The House failed to override (266-148) on Oct. 2, 1992.

On Aug. 28, 1992, President Bush vetoed his twelfth bill of the 102d Congress. H.R. 5318, the United States-China Act of 1992, would have extended most-favored-nation treatment to the products of the Peoples Republic of China. The President did not favor placing additional conditions on the renewal of China's most-favored-nation trade status. The House overrode the veto (374-74) on Sept. 30, 1992. The Senate failed to override (59-40) on Oct. 1, 1992.

President Bush's thirteenth veto was of H.R. 5517, the District of Columbia Appropriations Act of 1993. Vetoed on Aug. 30, 1992, H.R. 5517 would have provided Federal funding for Washington, D.C. for FY1992. President Bush rejected this legislation because it lifted the ban on public funding for abortions in the city. Congress made no attempt to override this veto.

On Oct. 3, 1992, he vetoed S. 12, the Cable Television Consumer Protection Act of 1992. This legislation restored the right of local regulatory authorities to regulate cable television rates and ensured carriage on cable television of local news and other programming. President Bush vetoed S. 12 because, in his opinion, it would have raised, not lowered, cable rates; stagnated competition; cost jobs; and discouraged investment in telecommunication. The override effort succeeded in the Senate (74-25) and in the House (308-114) on Oct. 5, 1992. This was President Bush's first veto override.

President Bush's last veto, as of this writing, was of H.R. 11. The Enterprise Zone Tax Incentives Act of 1992 would have amended the Internal Revenue Code of 1986 to provide tax incentives for the establishment of tax enterprise zones. The President said that the measure contained numerous tax increases, violated fiscal discipline, and would have destroyed jobs and undermined small businesses. This bill was pocket vetoed, preventing a challenge from Congress. The President issued a Memorandum of Disapproval stating his reasons for not signing this legislation on Nov. 4, 1992. The 10- day period expired at midnight Nov. 5, making November 6 the effective date of the pocket veto.

(For a summary of President Bush's vetoes during the 101st Congress, see *Major Legislation of the Congress*. Summary Issue/101st Congress. CRS, December 1990. For more information, see CRS Issue Brief 89111, *Presidential Vetoes and the Bush Administration*.)

Gary Galemore

MLC-051

SUPREME COURT NOMINATION OF CLARENCE THOMAS

...spurs proposals to reform selection process...

On July 1, 1991, President Bush announced his intention to nominate a U.S. appellate court judge, Clarence Thomas of Georgia, to the Supreme Court. The immediate prospect of a vacancy on the Court had been created on June 27, 1991, when Associate Justice Thurgood Marshall, 82, announced his intention to retire upon the confirmation of his replacement. Thomas, a 43-year-old black man, the son of a Georgia sharecropper, would take the place of the oldest Justice then on the Court, who had been the first (and only) black ever to serve on the Court. On July 8 the President sent his nomination of Judge Thomas to the Senate for confirmation.

Judge Thomas testified before the Senate Judiciary Committee on September 10, 11, 12, 13, and 16, followed by 3 more days of hearings, on September 17, 19, and 20, for other witnesses testifying in support of or against the nomination. The Committee on September 27 voted 13-1 to report the Thomas nomination to the full Senate with no recommendation, after a motion to recommend the nomination favorably failed by a Committee vote of 7-7. The Senate on October 3 and 4 debated whether to confirm Judge Thomas, scheduling the confirmation vote for October 8. When the Senate resumed debate on October 7, however, its attention was focused on law professor Anita Hill's accusation (made public on October 5) that Thomas had sexually harassed her while she worked for him at the Department of Education and at the Equal Employment Opportunity Commission. On October 8 the Senate agreed by unanimous consent to reschedule its vote on the Thomas nomination for October 15, to allow the Judiciary Committee time for further inquiry into this accusation. On October 11 the Judiciary Committee, in televised hearings viewed by millions, heard testimony by Professor Hill relating in detail the nature of the alleged sexual harassment and by Judge Thomas denying the accusations. The Committee heard further testimony from Judge Thomas on October 12 and from supporting witnesses for both Professor Hill and Judge Thomas on October 13. On October 15, after resuming debate on the nomination, the Senate voted 52-48 to confirm Judge Thomas to the Supreme Court -- the most Senate votes ever cast against a nominee confirmed to the Court.

The Thomas nomination had been controversial from the outset. Prior to his appointment in 1989 to the U.S. Circuit Court of Appeals for the District of Columbia, Judge Thomas served in high-visibility posts for 8 years in the Reagan Administration. There he gained a reputation as a political conservative who was outspokenly critical of affirmative action as an approach to civil rights enforcement. His confirmation to the High Court would make him the sixth conservative jurist appointed by either President Reagan or President Bush. Liberals in the Senate feared that past Supreme Court decisions upholding abortion rights and affirmative action laws would be jeopardized by Judge Thomas's appointment to the Court.

Critics maintained that President Bush had passed over many potential candidates far more qualified for the Court than Judge Thomas, whose judicial experience totaled only 18 months. His supporters, on the other hand, maintained that the nominee would bring to the Court a unique background: he had known racial discrimination firsthand, having experienced racial segregation in the Deep South as a youth. This background, they contended, would make him far more sensitive than other Justices on the Court to violations of constitutional rights.

During the first set of hearings, from Sept. 10 to 20, 1991, Judge Thomas was faulted by some Senators for appearing evasive in his response to questions on various issues, particularly on abortion and civil rights. His supporters, however, defended the nominee, maintaining that he acted properly in refraining in his Committee testimony from taking firm positions on constitutional issues likely to come before the Court.

The Thomas confirmation battle drew widespread attention to the issue of whether the Supreme Court nomination and confirmation process should be reformed. Among the most prominent critics of the process was President Bush, who on October 24 called for a "more tolerant, less viciously partisan debate" on nominations. He also proposed that the time that elapses between nomination and confirmation be shortened to 6 weeks. (The confirmation process for Judge Thomas, from nomination to Senate approval, totalled just over 14 weeks.) Expressing concern for preserving document confidentiality, the President also directed that new restrictions be placed on Senate committee access to FBI background reports on nominees. These restrictions, however, were removed on Feb. 7, 1992, when the White House and Judiciary Committee reached a new understanding regarding the Committee's handling of FBI reports.

For their part, various Senators who had been critical of the Thomas nomination called for a more active advisory role for the Senate in the nomination process. One proposal, S.Res. 194 (introduced by Senator Paul Simon of Illinois, a member of the Judiciary Committee), expressed the sense of the Senate that there should be "informal, bipartisan consultation between the President and "some Members of the Senate on who is to be named to the Supreme Court before a name is submitted to the Senate." Similarly, a Democratic task force (consisting of five Senate committee chairmen appointed by the Senate majority leader) recommended, in a report issued on Feb. 4, 1992, that the President and Senate should immediately begin consultations on future Supreme Court nominations. Such consultations, the task force maintained, would "minimize conflict between the two branches and expedite the confirmation process."

Other Senators, however, have been critical of proposals for instituting Senate advice into the process of selecting Supreme Court nominees. A President who agreed to such proposals, they maintained, would be surrendering his exclusive power under Article II, Section 2 of the Constitution to make nominations. When the 102d Congress adjourned *sine die* on Oct. 8, 1992, no Senate action had been taken either on S.Res. 194 or on other proposals to reform the Supreme Court nomination and confirmation process.

The Thomas nomination also raised the issue of whether and how to alter the hearing process when a Supreme Court nomination involves allegations of impropriety or scandal. Particularly sensitive has been the question of the circumstances under which the Judiciary Committee should consider closing its hearings. On June 25, 1992, in a major speech on the Senate floor, Senator Joseph R. Biden, Jr., of Delaware, announced that in the future, as long as he is Chairman, the Judiciary Committee will "routinely conduct a closed session with each nominee to ask that nominee -- face to face, on the record, under oath -- about all investigative charges against that person."

During the 102d Congress, the issue of how to select a Supreme Court nominee entailed serious differences of opinion between a Republican President and Members of the Senate's Democratic majority. Their disagreements were primarily over the criteria that a President should use when choosing a nominee and the degree of consultation he should engage in with the Senate before making his choice. During the 103rd Congress, the Senate's approach to reform of the Supreme Court confirmation process may be significantly affected by who is occupying the White House and by whether the President's party or the opposition is in the Senate majority.

Denis Steven Rutkus

HEALTH

MLC-052

AIDS: AN OVERVIEW OF ISSUES

...over 160,000 reported deaths in the United States...

AIDS is a major public health threat that poses many difficult policy dilemmas. In addition to the problems with AIDS itself, there is growing concern about those persons infected with the human immunodeficiency virus (HIV) who have not yet developed symptoms. Since September 1981, over 240,000 cases of AIDS with over 160,000 deaths have been reported in the United States. The Centers for Disease Control (CDC) estimates that one million Americans are infected with HIV; worldwide, the World Health Organization (WHO) estimates that 10 million people are HIV-infected.

Controversies over AIDS education have focused on information content, Federal vs. local efforts, and the adequacy of attempts to reach specific risk groups. Research on an AIDS vaccine is progressing, but scientific and legal difficulties are important obstacles in its development. There is concern about resources to provide adequate treatment and support services to people with HIV. Severe strains may be felt from mounting costs for Government- financed health care, disability payments, health insurance, and losses on uninsured patients. In addition, the physical capacity of the health care system may prove inadequate to meet the needs of AIDS patients for long-term care, home and community-based health care, and hospice services.

Many difficult legal issues have arisen from the HIV epidemic. There is strong legal authority to protect the public health; however, certain situations and proposals have led to charges of illegal discrimination against people infected or thought to be infected with HIV. Privacy issues have also been raised. In the workplace, employers and labor unions are developing AIDS policies.

The U.S. Public Health Service continues to work on strategies for controlling the epidemic. The Presidential Commission on the HIV Epidemic released a final report with nearly 600 recommendations in June 1988. The National Commission on AIDS is monitoring the implementation of these 600 recommendations and, in September 1991, released a comprehensive report with its own recommendations on Federal, State, and local government activities to fight the AIDS epidemic. In an Oct. 29, 1992, speach, President-elect Bill Clinton indicated that he would appoint an individual to oversee and coordinate Federal AIDS efforts. Clinton also indicated that he intends to increase funding for AIDS, and that top priorities would be developing an AIDS vaccine and AIDS therapies.

Comprehensive legislation authorizing programs for AIDS education, prevention, treatment, care, and research was included in the Health Omnibus Programs Extension (P.L. 100-607). The Americans with Disabilities Act (P.L. 101-336) provides broad discrimination protection for various individuals, including people with HIV infection. The Ryan White Comprehensive AIDS Resources Act (P.L. 101-381) provides emergency relief grants to areas with high numbers of AIDS cases. (For further information, see CRS Issue Brief 87150, *AIDS: An Overview of Issues*, by Judith A. Johnson.)

LEGISLATION

P.L. 102-96, S. 1594

Terry Beirn Community Based AIDS Research Initiative Act of 1991. Passed Senate July 31, 1991. Passed House Aug. 2, 1991. Signed into law Aug. 14, 1991.

P.L. 102-141, H.R. 2622

Treasury, Postal Service, and General Government Appropriations Act, 1992. Requires each State Public Health Official to certify to the Secretary of HHS that CDC guidelines concerning transmission of HIV have been instituted in the State in order to become eligible for assistance under PHS. Introduced June 12, 1991; referred to Committee on Appropriations. Passed House, amended, Oct. 3, 1991. Signed into law Oct. 28, 1991.

P.L. 102-236, H.R. 2722/S. 1532

Abandoned Infants Assistance Act Amendments of 1991. Extends authorization for and expands demonstration programs for infants abandoned in hospitals. H.R. 2722 introduced June 20, 1991; referred to Committees on Education and Labor and on Energy and Commerce. Reported, amended, Sept. 19, 1991 (H.Rept. 102-209, Part 1), by Committee on Education and Labor. Ordered reported Oct. 8, 1991, by Committee on Energy and Commerce. S. 1532 introduced July 23, 1991; referred to Committee on Labor and Human Resources. Reported Sept. 25, 1991 (S.Rept 102-161). Passed Senate, amended, Oct. 29, 1991. House passed measure, Nov. 19, with provisions of H.R. 2722 inserted in lieu. Senate agreed to House amendments, Nov. 26; House agreed to Senate amendment, Nov. 27. Signed into law Dec. 12, 1991.

P.L. 102-321, S. 1306

Alcohol, Drug Abuse, and Mental Health Administration Reorganization Act of 1991. Amends the Public Health Service Act to reorganize and otherwise provide for substance abuse and mental health services. Conference report (H.Rept. 102-546) agreed to in House July 1 and in Senate June 9. Signed into law July 10, 1992.

P.L. 102-408, H.R. 3508

Health Professions Education Amendments of 1991. Amends the Public Health Service Act regarding the education and training of health professionals. Conference report (H.Rept. 102-925) agreed to in House Sept. 29 and in Senate Oct. 2. Signed into law Oct. 13, 1992.

Judith A. Johnson

MLC-053

FDA ENFORCEMENT

...H.R. 3642 proposed changes...

The Federal Food, Drug, and Cosmetic Act of 1938 (FFDCA) established a set of fundamental objectives for safe, effective, wholesome, and truthfully labeled products. The Food and Drug Administration (FDA) implements these objectives for foods, drugs, biologics, cosmetics, medical devices, and radiological products. Over time, the scope of the products covered by the FFDCA has increased substantially and FDA's enforcement task has increased. FDA currently enforces the FFDCA through two major principles: (1) encouragement of self regulation and promotion of voluntary compliance; and (2) enforcement of punitive provisions against those in the industries that do not comply with the regulations established under FFDCA.

An amended H.R. 3642 proposed changes to the FFDCA that would have strengthened the enforcement powers for foods and cosmetics that FDA currently has for medical devices and drugs. The bill incorporated many of the proposed provisions in S. 2135, the Food, Drug, Cosmetic, and Device Enforcement Amendments of 1991, but did not, however, extend FDA's influence to enforce regulations on vitamins, minerals, and herbs sold at retail. H.R. 3642 was reported out of the Committee on Energy and Commerce, but did not receive further floor action.

As reported, H.R. 3642 allowed the FDA to recall products where there was a reasonable probability that the food, drug, device, or cosmetic would cause serious adverse health consequences or death. Currently, FDA must persuade the company to recall the product. The bill extended current drug detention authority to devices, foods, and cosmetics, with limitations for seasonal and perishable foods. It allowed FDA to assess civil money penalties against persons who have "knowingly" violated the FFDCA. This bill extended inspection authority to all products that FDA regulates and required that manufacturers maintain records. It also gave FDA inspectors authority to inspect equipment and take photographs, but protected information on trade secrets, which were defined as a formula for, an ingredient contained in, or a manufacturing process for a flavor, fragrance, or spice. Records could be inspected except for those protected under attorney-client privilege. The bill required that a product refused entry to the United States be so labeled and it increased the size of the bond to three times the product's invoice value, if the owner has defaulted more than twice in the previous year. All expenses would have been paid by the owner if the import must be relabeled, held, or destroyed.

Support for this bill came from Members of Congress who wanted to provide FDA with enforcement tools similar to those already available to other regulatory agencies. Supporters claimed that FDA cannot fulfill its mandate without the ability to obtain essential information concerning regulated products. Opposition to the bill came from industry groups who objected to the scope of the bill and who feared such authority could be abused.

LEGISLATION

H.R. 3642 (Waxman)

Food, Drug, Cosmetic, and Device Enforcement Amendments of 1991. Original version, H.R. 2597, introduced June 7, 1991; referred to Committee on Energy and Commerce. Hearings held by Subcommittee on Health and the Environment July 19, 1991, where strong opposition to this bill surfaced from the Administration and representatives of the food and drug industries. Subsequently, Energy and Commerce Subcommittee on Oversight and Investigations held hearings Sept. 12, 1991, on other industries affected by the proposal: generic drugs, medical devices, and drug advertising. After these hearings, Committee on Energy and Commerce revised legislative language and introduced a new version of the bill, H.R. 3642. Committee marked up new version of the bill July 9, 1992, and reported amended version the same day. Reported to House by Committee on Energy and Commerce, amended (H.Rept. 102-1030), and placed on Union Calendar no. 574 Oct. 5, 1992. (Companion bill: S. 2135 (Kennedy))

Donna U. Vogt

MLC-054

FOOD SAFETY

...Congress monitors Federal role...

Food safety is defined broadly to mean the assurance that food products will not adversely affect human health because of unsanitary production conditions and practices, harmful pesticides, drugs, and contaminants, or improper handling or packaging. The Federal Government sets standards and require-

ments intended to ensure that the U.S. food supply is safe and wholesome. The major Federal agencies responsible for setting and implementing food safety responsibilities are the Food and Drug Administration (FDA) under the Secretary of Health and Human Services (HHS), the Agricultural Marketing Service (AMS), and Food Safety and Inspection Service (FSIS) of the U.S. Department of Agriculture (USDA), the National Marine Fisheries Service (NMFS), and the Environmental Protection Agency (EPA). Food safety responsibilities include: (1) setting standards to ensure safe food is available; (2) identifying health problems that could affect food safety; (3) monitoring products being marketed interstate to ensure compliance with current laws and regulations; (4) correcting problems at every stage in the processing and distribution of food products; and (5) punishing violators when necessary.

Recent events have raised questions about food and commodity contamination, pesticide residues in produce, the safety of imported food products, and other aspects of the U.S. food supply. Most food scientists believe that microbiological contaminants pose the majority of serious food safety problems. However, scientific data on food hazards are often incomplete and open to different interpretations. In light of this, Congress is monitoring the Federal role in minimizing foodborne health hazards and in protecting consumers from foodborne dangers, such as pesticide residues. In addition, pending legislation would establish new food safety policies. The prospects of a North American Free Trade Agreement have stimulated considerable congressional attention to the safety of food imports from Mexico.

Pesticide use and pesticide residues are perhaps the most publicized food safety risk. Currently, the law contains a "zero-risk" standard for food additives that have been proven to be carcinogens. The Delaney Clause of the Federal Food, Drug, and Cosmetic Act (FFDCA) prohibits the use of a pesticide food additive that may be carcinogenic. The clause makes carcinogenic additives per se illegal, without regard to other characteristics, such as weighing overall health risks with benefits of product use. Consequently, a given pesticide chemical may be subject to different requirements, depending on whether its residues are found in raw or processed foods. Such inconsistency is often referred to as the "Delaney Paradox." Several congressional bills were proposed that would change this policy, but no bill reached either the House or Senate floor in the 102d Congress. It is likely that similar bills will be introduced in the 103rd Congress.

FDA and FSIS investigate hazards in foods through inspection and testing programs. Critics claim FDA has failed to inspect for many pesticide residues found in foods and also to inspect sufficient quantities of foods. For instance, FDA has been criticized for inspecting only approximately 2% of all FDA-regulated food imports. FDA and FSIS also contract with State officials to carry out some inspection responsibilities. Both agencies separately have a wide range of programs designed to control foodborne diseases, including enforcing standards of good manufacturing practices, inspecting processing factories, and sampling foods. Consumer advocate groups claim that the basis for many Federal standards is inadequate, because the standards were established with poor or absent long-term data. Other concerns include the USDA monitoring of meat and poultry inspection procedure changes and the FDA enforcement of food safety regulations.

LEGISLATION

H.R. 5730 (Swift)

Lead Exposure Reduction Act. Amends the Toxic Substances Control Act (TSCA) to reduce the levels of lead in the environment and prohibits any food packaging to contain lead. Introduced July 31, 1992; referred to Committee on Energy and Commerce. Reported to House by Committee on Energy and Commerce (H.Rept. 102-852, part 1) Aug. 14, 1992. Reported to House by Committee on Education and Labor (H.Rept. 102-852, part 2) Sept. 22, 1992.

Donna U. Vogt

MLC-055

HEALTH INSURANCE

...legislative alternatives given attention...

In the 102d Congress, widespread attention was given to legislative alternatives for expanding access to health insurance. Central to the debate was the issue of how to expand access for America's estimated 34.6 million uninsured and large number of underinsured without fueling inflation in health care costs and do so at a time when significant new Federal or State spending is viewed by many as unlikely. While there is growing consensus in Congress that lack of access to adequate health insurance is a problem, there is little agreement on what, if anything, to do about it.

Some in Congress believe, for example, that the Nation can only afford gradual steps toward improving health insurance coverage, through such approaches as reform of the private health insurance market, or coverage of specific populations, such as infants and pregnant women. Others believe that the only way to address the problems of health care access and escalating costs is by enacting comprehensive reform, and

establishing a program of health insurance coverage for all that incorporates effective cost controls. Whatever approach is pursued is likely to have significant effects on individuals, businesses, government, and providers and suppliers of health care, making agreement on any one or a combination of legislative proposals difficult.

Generally, the uninsured are young (under age 24); they are poor; and they have ties to the work force (primarily in small firms, in industries with seasonal or temporary employment, and in firms with a lower skilled or less unionized work force). There is evidence that the uninsured population grew in the last decade. Insurance status has implications for access to health services: the uninsured use fewer health care services and have poorer health status than the insured.

Proposals introduced in the 102d Congress incorporate widely different approaches to expanding access to health insurance, including expanding health insurance coverage through Medicaid; providing tax incentives to provide coverage privately; mandating employers to extend health insurance benefits to uncovered or underinsured groups; and instituting a national health insurance system. The Bush Administration has offered its own proposal, which relies chiefly on tax credits and deductions to assist individuals with the purchase of private coverage.

One factor that may complicate a solution to access problems is the rising cost of health care. Over the past 10 years, health care spending has grown faster than spending in the general economy. Many believe that without major changes, the trend in spending will continue. The numbers of uninsured and underinsured individuals could increase as rising health care costs make it more expensive for individuals and employers to purchase health insurance. Any attempt to expand access to health insurance may therefore need to address the factors fueling health care inflation. Proposals to control health care costs are incorporated in many of the access bills and reflect varied strategies such as administrative reform, encouragement of managed care, and new reimbursement systems for medical services. (For further information, see CRS Issue Brief 91093, *Health Insurance*, by Mark Merlis.)

LEGISLATION

S. 1872 (Bentsen)

Better Access to Affordable Health Care Act of 1991. Regulates insurance underwriting and rating practices in the small group market and requires insurers to offer standard plans; preempts State mandates affecting such plans. Phases in expansion of self-employed health insurance deduction. Provides continuity of coverage for employees changing jobs. Expands Medicare to include preventive benefits. Introduced Oct. 24, 1991; referred to Committee on Finance. Ordered reported, with modifications, as part of Senate amendment to H.R. 4210, Mar. 6, 1992. (H.R. 4210 passed Senate, Mar. 13, 1992. Health insurance- related provisions not included in conference agreement.) Also included in Senate amendment to H.R. 11, as passed Sept. 29, 1992. Conference agreement retained only a provision extending the 25% health insurance deduction for the self-employed through June 30, 1992. Conference report (H.Rept. 102-1034) filed Oct. 5, 1992; passed House Oct. 6, 1992; passed Senate Oct. 8, 1992.

Mark Merlis

MLC-056

HUMAN FETAL RESEARCH AND TISSUE TRANSPLANTATION

...unresolved issues remain...

Human fetal tissue transplantations have heightened congressional and public debate on the subjects of abortion and human fetal research. Doctors in the United States and other countries have implanted fetal brain tissue into more than 100 patients with Parkinson's disease. In addition, an estimated 600 insulin-dependent diabetic patients have been experimentally treated with human fetal pancreatic tissue transplants and at least one fetus in utero, with fetal bone marrow tissue. Preliminary results indicate that fetal tissue transplants may become a beneficial therapy for patients with Parkinson's disease and diabetes and, possibly, other chronic degenerative conditions, such as Alzheimer's disease, Huntington's chorea, spinal cord injury, and certain blood disorders.

The use of human fetal tissue for research and therapeutic purposes, however, presents a number of unresolved ethical, legal, and scientific issues. Proponents of this research believe the donation of tissue and organs from dead fetuses, including those obtained from induced abortions, should be approved in a manner similar to that of adult cadavers. However, opponents believe that any use of tissue from induced abortions is a violation of human fetuses' rights and should not be federally funded.

In the United States, federally funded fetal tissue research has been conducted for decades and Federal regulations pertaining to research activities involving human fetuses do not prohibit Federal funding support for research that uses tissue from dead human fetuses. However, this policy was modified in 1988, in response to efforts by the National Institutes of Health (NIH), to obtain Department of Health and Human Services (DHHS) approval to transplant fetal tissue (obtained from induced abortions) into patients with Parkinson's disease. In the Mar. 22, 1988, response, DHHS officials decided that NIH should first appoint an advisory pa-

nel to study and report on the issues associated with fetal transplantation research and placed a moratorium on Federal support of certain transplantation projects during the interim.

NIH appointed a 21-member Human Fetal Tissue Transplantation Research Panel made up of experts in a number of fields, including ethics, biomedical and behavioral research, law, theology, and medicine. After holding public meetings, the panel reported its findings and recommendations on Dec. 14, 1988, to the NIH Director's Advisory Committee. A majority of the panel concluded that the use of human fetal tissue for research is acceptable public policy. The panel recommended that guidelines be implemented to address a number of concerns, including potential commercialization of tissue. The NIH Advisory concurred with the panel and recommended that the moratorium be lifted.

In January 1989, the director of NIH submitted both the panel's and the Advisory Committee's reports, each of which recommended that the Government support transplantation projects in which fetal tissue from induced abortions are used. However, in November 1989, a decision was made by DHHS Secretary Louis Sullivan to continue the moratorium indefinitely. According to officials, this decision was based largely on concerns that reversing the ban would result in an increase in the incidence of abortions; it is feared that as research shows unique and valuable applications of fetal tissue, market forces will tend to create a supply (i.e., fetuses may be contracted for and harvested).

Legislation that would have overturned the moratorium and permitted Federal funding of fetal tissue transplantation research, regardless of whether the tissue is obtained from a spontaneous abortion, an induced abortion, or a stillbirth, H.R. 2507, was vetoed by the President on June 23, 1992. H.R. 2507 contained a number of provisions that addressed concerns that were raised by the Transplantation Panel, including: (1) the woman donating the tissue must not be informed of the identity of any transplant recipient; (2) a requirement of written documentation that the woman's decision to undergo an abortion was not made in order to donate tissue for research; and (3) the sale of human fetal tissue would be prohibited.

Congress was unsuccessful at overriding the veto of H.R. 2507; nevertheless, a modified version of the NIH authorization was introduced, H.R. 5495 (Waxman) and S. 2899 (Kennedy). The new legislation would have required federally funded investigators to first seek tissue from the "Fetal Tissue Bank," which was created by President Bush by executive order on May 19, 1992. The bank, administered by NIH, will collect tissue from ectopic pregnancies and spontaneous abortions to be used for fetal tissue transplantation research. Officials at NIH and the Department of Health and Human Services have indicated that sufficient and suitable tissue can be obtained from these sources for research. However, a number of transplant researchers has expressed skepticism that these sources will provide appropriate tissue. H.R. 5495 and S. 2899 would have permitted researchers to obtain fetal tissue from induced abortions for transplantation research, if the Fetal Tissue Bank did not provide appropriate tissue. However, H.R. 5495 and S. 2899 never received floor action.

LEGISLATION

H.R. 5495 (Waxman)/S. 2899 (Kennedy)

Amends the Public Health Service Act to revise and extend the programs of the National Institutes of Health and for other purposes. H.R. 5495 introduced June 25, 1992; referred to Committee on Energy and Commerce (Subcommittee on Health and the Environment). S. 2899 introduced June 25, 1992; referred to Committee on Labor and Human Resources. Committee received executive comment from DHHS, unfavorable, July 28, 1992; committee received executive comment from Deparment of Justice, unfavorable, July 29, 1992. Reported to Senate, amended (without written report), Sept. 14, 1992. Considered in Senate and returned to calendar Oct. 5, 1992.

Irene Stith-Coleman

MLC-057

MEDICAID

...providing assistance to nearly 30 million...

Medicaid, authorized by Title XIX of the Social Security Act, is a Federal- State matching program providing medical assistance in FY1992 to nearly 30 million low-income persons who are aged, blind, disabled, or members of families with children. Each State designs and administers its own Medicaid program, setting eligibility and coverage standards within broad Federal guidelines. The Federal share of expenditures for Medicaid services is tied to a formula inversely related to the square of a State's per capita income. For FY1993, the Federal matching percentages range from 50% to 79.01%.

Medicaid spending has risen sharply in recent years. In FY1991 the Federal share was $52 billion and total spending was about $92.1 billion, nearly 28% more than the FY1990 total of $72.1 billion. Federal Medicaid costs are expected to be $70.9 billion for FY1992 and $82.6 billion in FY1993. Total costs are expected to reach $124 billion in FY1992 and $144.7

billion in FY1993. The Federal share of Medicaid expenditures is appropriated from general revenues and is approximately 57% of total program spending.

The rapid growth in Medicaid spending is due to a combination of factors including general inflation in health care and an increase in the numbers eligible for Medicaid in a recessionary economy. States say they are under pressure to meet Federal mandates to provide more benefits to more people. The Administration attributes some of the growth to donation and tax programs that some States used to finance Medicaid between 1986 and 1992.

Used in the State share of Medicaid expenses, revenues generated from providers allowed States to draw additional Federal matching payments to operate their Medicaid programs. P.L. 102-234, enacted in November 1991, bans such practices. In their efforts to finance Medicaid, provide health care for uninsured persons, and contain costs, some States may seek legislation, or waivers of Federal law, to administer their health and welfare programs.

OBRA 90 included reforms in prescription drug purchasing that were estimated to save Medicaid $155 million in FY1991 and $2.9 billion in fiscal years 1991 to 1995. Intended to give State Medicaid programs discounts similar to those received by some hospitals, health maintenance organizations, and other large purchasers, the law requires drug manufacturers to pay a rebate on each drug purchased.

The basic rebate specified in OBRA 90 was the greater of either 12.5% of the average manufacturer price (AMP) or the difference between the AMP and the "best price". The "best price" was defined as the lowest price a manufacturer gives to any purchaser in the U.S. For the last 6 months of calendar year 1991, the Federal share of Medicaid rebate monies was $136.8 million. The Department of Health and Human Services (HHS) attributed about 30% of the savings to the best price factor of the rebate law.

Best price included some highly discounted prices that manufacturers charged the Department of Veterans' Affairs (VA). Following implementation of OBRA 90, there were reports of dramatically higher prices charged VA, as well as private and public health care providers who found it difficult to negotiate discounts with drug manufacturers. During the 2d session of the 102d Congress, there were efforts to make lower drug prices available to VA and other publicly assisted entities without reducing the savings to Medicaid. Some proposals would have repealed the best price provisions; others would have reduced drug prices to their October 1990 levels.

H.R. 5193, passed by Congress in October 1992 and signed into law (P.L. 102- 585) Nov. 4, 1992, would require drug manufacturers to enter into agreements with the Secretaries of VA and HHS. These agreements would be in addition to Medicaid rebate agreements and would limit the prices manufacturers may charge VA, the Department of Defense, Indian Health Service, certain hospitals, Public Health Service, and any entity that receives funds under the Public Health Service Act. Under the law, if any manufacturer fails to enter into the required agreements, Federal matching funds would not be available for Medicaid expenditures for that manufacturer's products.

P.L. 102-585 excludes the prices charged to VA and specified other entities on or after Oct. 1, 1992, from calculations of best price for Medicaid rebates. The law adjusts the basic Medicaid rebate percentages to offset reductions in best price that are anticipated to result from the exclusions. The adjusted percentages would be 15.7% of the AMP from Oct. 1, 1992 through calendar year 1993, 15.4% in 1994, and 15.2% of the AMP for 1995, and 15.1% thereafter.

P.L. 102-139, H.R. 2519, effective Oct. 1, 1991, excluded prices available to VA from calculation of best price for the purpose of Medicaid rebates. The provision expired June 30, 1992; during the time it was in effect, there was increased cost to Medicaid.

LEGISLATION

P.L. 102-139, H.R. 2519

Department of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 1992. Introduced June 3, 1991. Passed House, amended, June 6, 1991. Passed Senate, amended, July 18. Conferees appointed; conference report agreed to Oct. 2, 1991. Signed into law Oct. 28, 1991.

P.L. 102-234, H.R. 3595

Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991. Introduced Oct. 21, 1991; referred to Committee on Energy and Commerce. Passed House, amended, Nov. 19, 1991. Passed Senate Nov. 26, 1991. Signed into law Dec. 12, 1991.

P.L. 102-585, H.R. 5193

Veterans Health Care Act of 1992. Prohibits Federal matching funds for Medicaid drug expenditures for the products of any manufacturer who has not entered into agreements to provide discounts to VA, Public Health Service and other specified entities. Excludes prices to VA and certain other entities from calculations of best price for the purpose of Medicaid rebates. Adjusts Medicaid drug rebate percentages to offset anticipated declines in best price. Passed House, amended, Oct. 5, 1992; passed Senate Oct. 8, 1992. Signed into law Nov. 4, 1992.

Melvina Ford

MLC-058

MEDICARE

...Medicare provides protection for 34 million people...

Medicare provides health insurance protection for 34 million aged and qualified disabled individuals. The program covers hospital services, physician services, and other medical services for those eligible, regardless of income. For FY1993, Medicare outlays are expected to amount to $130.6 billion.

Medicare includes two parts. Part A, or Hospital Insurance (HI), covers inpatient hospital care, and in certain cases, short-term skilled nursing facility care after a hospital stay, home health agency visits, and hospice care. Part A is financed by HI payroll taxes.

Part B, or Supplementary Medical Insurance (SMI), covers the services of physicians, outpatient hospital care, laboratory and x-ray services, and other related medical services and supplies. Part B is financed by beneficiary premiums and general revenues. The monthly premium ($31.80 in 1992) accounts for about 25% of program costs.

The rate of growth in Medicare spending has long been a concern to policymakers. During the past decade, Congress has generally looked at ways to control Medicare cost increases as part of its overall efforts to reduce the Federal budget deficit, and to that end, has included program changes in budget reconciliation bills. The last major changes to medicare were included in the Omnibus Budget Reconciliation Act of 1990 (OBRA 90), P.L. 101-508. OBRA 90 reduced Medicare outlays by a total of $43.1 billion from what they otherwise would have been over the 5-year period from FY1991-1995.

In addition, Title XIII of OBRA 90, the Budget Enforcement Act (BEA) of 1990, established new budget enforcement rules which have important implications for Medicare. Under the new rules, Federal spending is divided into three categories: direct (entitlement) spending; discretionary spending; and social security. Medicare benefit payments are in the direct spending category and Medicare payments for administration are in the discretionary spending category. Direct spending programs are subject to "pay as you go" rules which require that any legislation expanding benefits not increase the deficit. This means that any benefit expansions must be offset by spending reductions in Medicare or other direct spending programs or be financed by increased revenues. If Congress enacts legislation increasing direct spending programs which are not offset by other spending reductions or increased revenues, some programs are subject to a sequester. Medicare benefits are subject to a maximum 4% sequester. Domestic discretionary spending programs, which include Medicare administrative costs, are one of three categories of discretionary spending subject to an overall spending limit. If the cap is exceeded, all domestic discretionary programs are subject to sequestration.

The second session of the 102d Congress considered a number of bills containing Medicare amendments. The House passed H.R. 3837, the Federal Program Improvement Act of 1992, which amends Medicare to (1) establish new standards and payment procedures for durable medical equipment suppliers, (2) improve identification of Medicare secondary payer situations and recovery of payments from primary payers, and (3) permit separate payment to physicians for interpretation of electrocardiograms. These provisions either reduce Medicare outlays or are designed to be budget neutral. The bill was not acted on in the Senate.

However, the Senate Finance Committee reported Medicare technical amendments as an amendment to H.R. 11, the bill to provide tax incentives for enterprise zones. The conference agreement, as summarized below, included numerous provisions; the agreement passed both houses just before adjournment, but was vetoed by the President on Nov. 4, 1992.

LEGISLATION

H.R. 11 (Rostenkowski)

Revenue Act of 1992. Urban aid and tax bill containing Medicare provisions, including: (1) extension of expiring provisions benefiting rural hospitals and of rural health demonstration programs; (2) repeal of reduction in payments for new physicians and restoration of payment for interpretation of EKGs; (3) strengthening of beneficiary protections against provider overcharges; (4) changes in payment for durable medical equipment (DME); (5) extension of coverage of post-transplant drugs and (on a demonstration basis) influenza vaccine; and numerous other technical and miscellaneous provisions. Introduced Jan. 3, 1991. Passed House, amended, July 2, 1992. Passed Senate, amended, Sept. 29, 1992. Conference report (H.Rept. 102-1034) filed Oct. 5, 1992; passed House Oct. 6, 1992; passed Senate Oct. 8, 1992. Pocket vetoed, effective Nov. 5, 1992.

H.R. 3837 (Pickle)

Federal Program Improvement Act of 1991. Amends Medicare to (1) establish new standards and payment procedures for durable medical equipment suppliers, (2) improve identification of Medicare secondary payer situations and recovery of payments from primary payers, and (3) permit separate payment to physicians for interpretation of electrocardiograms. Introduced Nov. 21, 1991 and referred to the Committees on Ways and Means and Energy and Commerce. Reported by Ways and Means Apr. 7, 1992. Passed House under suspension of the rules Aug. 3, 1992.

Richard J. Price

MLC-059

REAUTHORIZATION OF THE PUBLIC HEALTH SERVICE ACT

...controversy on family planning...

During 1992, the 102d Congress acted on several authorities of the Public Health Service (PHS) Act for reauthorization. The PHS funding authorities under consideration included: Title X, which provides support for family planning programs; Title XIX, which provides grants to States under the Alcohol, Drug Abuse, and Mental Health Services Block Grant and the Preventive Health and Health Services Block Grant; and Titles VII and VIII, which provide support for education and training of health professionals.

Title X of the PHS Act provides support for family planning clinics, research on family planning, training of family planning personnel, and development and dissemination of family planning information. Title X has not been formally reauthorized since the end of FY1985. Bills to reauthorize the program have failed because of the controversial nature of issues concerning family planning. The most contentious of these issues is a regulation that prohibits Title X programs from providing counseling and referral for abortion services. S. 323, a bill to nullify the regulation and reauthorize Title X for 5 years, was passed by Congress and vetoed by President Bush.

Title XIX of the PHS Act provides grants to States for alcohol and drug abuse treatment and prevention activities, and community mental health services. The 102d Congress enacted legislation to amend and extend the legislative authority for the block grant program. P.L. 102-321 splits the block grant into two separate blocks -- a block grant for substance abuse prevention and treatment and a block grant for community mental health services. It also transfers three research institutes -- the National Institute for Alcohol Abuse and Alcoholism, the National Institute for Drug Abuse, and the National Institute of Mental Health -- to the National Institutes of Health and creates a new agency, the Substance Abuse and Mental Health Services Administration, to focus on prevention and treatment programs and activities.

Title VII of the Act provides Federal support for health professions education in the fields of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, public health, and in graduate programs in health administration. Title VII provides two forms of assistance - - institutional support to health professions schools in the forms of grants and contracts for special training programs, and student assistance in the form of loans, loan guarantees, and scholarships for students enrolled in these schools. Title VIII of the Act authorizes assistance for the education and training of nurses, through both institutional support for nursing schools and financial assistance for nursing students.

The Health Professions Education Extension Amendments of 1992 (P.L. 102- 408) provides for the reauthorization of Titles VII and VIII of the PHS Act. According to the conference report, both Titles have been restructured to emphasize program activities designed to improve health care access and delivery through the training of primary care providers and mid-level practitioners.

The Centers for Disease Control administers a variety of preventive health programs authorized under the PHS Act. Among these is the Preventive Health and Health Services Block Grant, authorized under Title XIX of the Act, which provides grants to the States for preventive health services not covered by categorical grants, to reduce preventable morbidity and mortality. The grants cover 12 different preventive health activities. The 102nd Congress considered and passed legislation in 1992 to amend and extend the block grant authority through FY1997. The Preventive Health Amendments of 1992 as passed by the Congress expands the allowable uses of these block grant funds by States to include activities intended to make progress toward the goals identified in the DHHS report, Healthy People 2000: National Health Promotion and Disease Prevention Objectives. The bill also changes the name of CDC to the Centers for Disease Control and Prevention (CDCP), establishes within the agency a new Office for Adolescent Health, and amends and extends existing preventive health authorities in the areas of lead poisoning prevention, injury control, and prevention of breast and cervical cancer. The 1992 Preventive Health Amendments also authorizes new programs in the areas of screening and treatment for infertility arising from sexually transmitted diseases, prevention of prostate cancer, comprehensive perinatal care enhancement, and collection of data on birth defects. It also establishes a nonprofit National Foundation for the Centers for Disease Control and Prevention to carry out activities for the prevention and control of diseases, disorders, injuries, and disabilities, and for the promotion of public health.

LEGISLATION

P.L. 102-321, S. 1306

Alcohol, Drug Abuse, and Mental Health Reorganization Act of 1991. Restructures ADAMHA into a services-oriented agency, transferring the National Institutes on Alcohol Abuse and Alcoholism, Drug Abuse, and Mental Health to NIH. Also amends and extends the authority for the ADMS block grant, including a revision of the allocation formula. Introduced June 17, 1991; referred to Committee on Labor

and Human Resources. Reported July 30, 1991 (S.Rept. 102-131). Passed Senate Aug 2, 1991. Passed House Mar. 24, 1992, after substituting language of H.R. 3698 as passed by the House. Conference agreement reported May 14, 1992 (H.Rept. 102-522). The House on May 19 failed under suspension of rules to agree on the conference report. On May 29, the House, under regular order, voted to recommit the bill to the conference committee for reconsideration. A second conference agreement (H.Rept. 102-546) was reported June 3, passed by the Senate on June 9, and by the House on July 1. Signed into law July 10, 1992.

P.L. 102-408, H.R. 3508

Health Professions Education Amendments of 1991. Amends and extends authorities under Titles VII and VIII of the PHS Act. Introduced Oct. 3, 1991; referred to Committee on Energy and Commerce. Reported Oct. 25, 1991 (H.Rept. 102-275; passed House Nov. 12, 1991. Passed Senate Nov. 26, 1991 after substituting language of S. 1933 as reported. Conference agreement passed by the Senate Sept. 25, 1992, and by the House September 29. Signed into law Oct. 13, 1992.

P.L. 102-531, H.R. 3635

Preventive Health Amendments of 1992. Amends and extends authority for the Preventive Health and Health Services Block Grant, and other preventive health authorities. Changes the name of CDC to the Centers for Disease Control and Prevention. Introduced Oct. 24, 1991; referred to the Committee on Energy and Commerce. Reported Nov. 15, 1991 (H.Rept. 102- 318). Passed by House Nov. 19, 1991, and by the Senate amended Nov. 27. Conference agreement reported Oct. 5, 1992 (H.Rept. 102-1019); passed by the House Oct. 6, and by the Senate Oct. 7, 1992. Signed into law Oct. 27, 1992.

H.R. 3090 (Waxman)

Family Planning Amendments of 1991. Requires Title X grantees to offer, upon request, non-directive counseling and referral regarding options for management of pregnancy. Requires grantees to comply with State laws regarding parental notification and consent for abortion for a minor. Authorizes Title X program through FY1996 at increasing appropriations beginning with $180 million in FY1992. Authorizes additional appropriations for training activities and educational materials. Introduced July 30, 1991; referred to Committee on Energy and Commerce. Reported Sept. 12, 1991 (H.Rept. 102-204). Passed House, Apr. 30, 1992. See S. 323, below.

H.R. 3698 (Waxman)

Community Mental Health and Substance Abuse Services Improvement Act of 1991. Amends Title XIX of the PHS Act to establish a Mental Health Block Grant and a Substance Abuse Block Grant. Amends Title V of the Act related to research in mental illness, alcohol abuse and alcoholism, and drug abuse, and to substance abuse prevention. Introduced Nov. 1, 1991; referred to Committee on Energy and Commerce. Reported (H.Rept. 102-464) and passed by the House Mar. 24, 1992 and its language substituted for that of S. 1306, which was then passed and sent to conference.

S. 323 (Chafee)

Title X Pregnancy Counseling Act of 1991. Requires family planning projects to offer complete information and counseling regarding management of unintended pregnancy. Exempts from the requirement a project or individual whose religious beliefs and moral convictions are contrary to the provision of some services. Includes provisions regarding parental notification before providing an abortion for a minor. Provides that no State may be denied Title X funds because it requires parental consent or notification before providing any health care service to a minor. Introduced Jan. 31, 1991; referred to Committee on Labor and Human Resources. Passed by the Senate July 17, 1991; passed by the House with an amendment in the nature of a substitute (H.R. 3090) Apr. 30, 1992. On July 31, 1992 conferees reached an agreement that follows that House bill (H.Rept. 102-767). Conference agreement passed by the House on Aug. 6 and the Senate on Sept. 14, 1992. Vetoed by the President Sept. 25; the Senate voted to override on October 1, but the House sustained the veto on Oct. 2, 1992.

S. 1933 (Kennedy)

Health Professions Training and Nurse Education Improvement and Reauthorization Act of 1991. Amends and extends certain authorities under Titles VII and VIII of the PHS Act. Introduced Nov. 7, 1991; referred to Committee on Labor and Human Resources. Reported Nov. 21, 1991 (S.Rept. 102- 227). See H.R. 3508, above.

Celinda M. Franco and Edward Klebe

HOUSING

MLC-060

HOUSING: LOW- AND MODERATE-INCOME ASSISTANCE PROGRAMS

...what level of assistance is appropriate?

Although programs providing housing assistance to low- and moderate- income families began over 50 years ago, there are still questions as to which best serve the Nation's need and what level of assistance is appropriate. Answers to these questions have changed over the years. The 101st Congress adopted the first major programmatic revision since 1974, in the Cranston-Gonzalez National Affordable Housing Act of 1990. Although continuing, with some amendment, the major ongoing programs, public housing and Section 8, it adopted several new programs: HOME, which provides grants to States and local jurisdictions to promote local initiatives in providing housing assistance; HOPE, which encourages the sale of public housing

and privately owned, assisted housing to tenants; a number of programs that combine social services with housing assistance to promote residents' upward mobility; and a permanent plan for preventing the existing private, subsidized stock from being eroded through prepayment of mortgages. Not all the new programs were funded, nor have regulations been issued for all of them. Reauthorization of the new programs and resolution of questions arising from the statutory and regulatory requirements is the focus of 1992 legislation. The Housing and Community Development Act of 1992, considerably amended from the House version, passed both the House and Senate, and was signed into law on Oct. 28, 1992 (P.L. 102- 550).

(For more information on this subject, see CRS Issue Brief 91006.)

LEGISLATION

P.L. 102-550, H.R. 5334

Housing and Community Development Act of 1992. Contains provisions to amend and extend certain laws relating to housing and community development and for other purposes. Introduced June 5, 1992; referred to Committee on Banking, Finance and Urban Affairs. Reported, amended, July 30, 1992 (H.Rept. 102-760). Passed House, amended, Aug. 5, 1992. Senate struck all after enacting clause and substituted the language of S. 3031 amended. Passed Senate in lieu of S. 3031, amended, Sept. 10, 1992. Conference report (H.Rept. 102-1017) filed October 5. Signed into law Oct. 28, 1992.

Grace Milgram

IMMIGRATION

MLC-061

IMMIGRATION AND REFUGEES

...refugee admissions and resettlement issues...

Refugee and other humanitarian admissions and refugee resettlement assistance were the focus of legislative action during the 102d Congress. The Federal refugee resettlement assistance program administered by the Department of Health and Human Service's Office of Refugee Resettlement Assistance (HHS/ORR) is in the process of a major restructuring, unprecedented since its creation in 1980. It is the intent of ORR to phase out State-administered cash and medical assistance in January 1993, and replace it with a Private Resettlement Program.

The HHS/ORR program was not formally reauthorized for FY1993. Legislative authority for the refugee resettlement assistance program rests in a combination of Title IV of the Immigration and Nationality Act (INA), the general authority for the program, and P.L. 102-394, the FY1993 HHS Appropriations Act. Out of total FY1993 ORR appropriation of $384.6 million, the conference agreement earmarked $247.8 million for transitional and medical services, in place of the previous line item of cash and medical assistance. At the same time, the conferees noted that they "neither endorsed nor prohibited implementation of the new program at this time," and stated further that they "expect that any program changes will comport with criteria previously outlined by the authorizing committees" (H.Rept. 102-974, p. 27).

In response to the Administration's initial privatization proposal combined with a much lower funding request, bills (H.R. 5383 and S. 1941) were introduced in the 102d Congress by the chairmen of both the House and Senate Judiciary immigration subcommittees to authorize HHS/ORR appropriations for FY1993 through FY1995 at well above the FY1992 level. In addition to reauthorizing the HHS/ORR program for 3 years, S. 1941 would have amended the enabling legislation to establish conditions and guidelines for ORR's proposed privatization of refugee resettlement assistance, including certification requirements for major program changes- -presumably the criteria to which the Appropriations Committee conferees were referring. Final action was not taken on the reauthorization legislation primarily because of opposition in the Senate. (For further information, see CRS Issue Brief 89025, *Refugee Admissions and Resettlement Policy*, by Joyce Vialet.)

Regarding refugee admissions, P.L. 102-391 extended the so-called Lautenberg amendment through September 30, 1994. This provision of the FY1990 Foreign Operations Act makes it easier for certain former Soviet and Indochinese nationals to qualify for refugee status, and allows Indochinese and Soviet nationals who have been denied refugee status and granted parole to adjust to permanent resident status after a year in the United States. Other immigration legislation enacted during the 102d Congress includes P.L. 102-404, the Chinese Student Protection Act, which provides for the adjustment to permanent resident status under the INA during a 12-month application period beginning July 1, 1993; and S. 2201, signed Oct. 24, 1992, which authorizes the admission to the United States of certain scientists from the former Soviet Union as employment-based immigrants under the INA.

Haitian migration was also a major issue during the 102d Congress, although legislation was not enacted.

The increase in Haitians leaving for the United States following the Oct. 1, 1991 coup raised legal and moral questions about current policies toward fleeing Haitians, including whether they should be classified as political refugees or economic migrants. In February 1992, the House passed H.R. 3844 which, among other things, would have halted repatriation for 180 days and establish refugee processing for Haitians. Bills (H.R. 5360 and S. 2826) were also considered which would have led to a reinstatement of the asylum prescreening feature of the Haitian interdiction policy ended by President Bush's May 24 Executive Order requiring the Coast Guard to immediately return all intercepted Haitians to Port-au-Prince. (For further information, see CRS Issue Brief 92021, *Haitian Migration to the U.S.: Issues and Legislation*, by Ruth Ellen Wasem).

LEGISLATION

P.L. 102-266

Further Continuing Appropriations, FY1992. Appropriates funds for the State Department's Migration and Refugee Assistance account, including the U.S. refugee admissions program, through Sept. 30, 1992. Signed into law Apr. 1, 1992.

P.L. 102-391

Foreign Operations, Export Financing, and Related Programs Appropriation Act, 1993. Extends the so-called Lautenberg amendment (Section 599D and 599E of P.L. 101-167) regarding refugee status and parole of certain former Soviet and Indochinese nationals through Sept. 30, 1994. Signed into law Oct. 6, 1992.

P.L. 102-394

Department of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1993. Includes an appropriation for HHS's Office of Refugee Resettlement of $384,576,000. Signed into law Oct. 6, 1992.

Joyce C. Vialet

INCOME MAINTENANCE

MLC-062

IRAS AND SAVINGS ACCOUNT PROPOSALS

...proposals include various modifications...

Individual retirement accounts (IRAs) have provided a tax-advantaged method of retirement saving for workers for 18 years. There were proposals to enhance IRAs and use them either directly or as models to support other individual saving goals. Some congressional leaders proposed increased tax benefits for IRA contributions to restore tax benefits taken away by the Tax Reform Act of 1986, to increase the saving rate, to stimulate the economy, and to facilitate desirable social goals. Opponents argued that such initiatives would use Federal revenue to help mainly higher income people and would achieve little increased saving.

The President's FY1993 budget proposed a new type of IRA and penalty- free withdrawals to meet the costs of medical care, higher education, or a first-home purchase. The House passed a tax bill (H.R. 4210) that included all three IRA withdrawal provisions, and the Senate passed a version that included Senator Bentsen's "Super IRA" proposal. (This new type of IRA would not defer taxes on contributions, but withdrawals would be tax-free. Thus, investment earnings would not be taxed.) The conference agreement, which included the withdrawal provisions and the Super IRA, was vetoed on Mar. 20, 1992. These proposals were then included in the urban aid tax bill (H.R. 11), passed on Oct. 8, 1992, but pocket vetoed by the President, effective Nov. 5, 1992.

IRAs are voluntary savings plans controlled by the individual contributor. The accountholder must forego current use of the savings in return for the benefits of deferred taxation on the investment earnings and the amounts contributed (if deductible). These tax deferrals resulted in the Federal Government's losing the current use of an estimated $6.9 billion of revenue in FY1991.

IRAs were authorized in 1974 for workers not covered by employer- sponsored pension plans. The contribution limit was $1,500 a year. In 1981, IRA eligibility was extended to all workers, and the annual limit was raised to the lesser of $2,000 or 100% of earnings. An earner and a nonworking spouse could set aside a combined $2,250. However, the Tax Reform Act of 1986 prohibited tax deferrals for IRA contributions by workers covered by employer-sponsored plans (or whose spouses are so covered) except for filers with adjusted gross income (AGI) below certain limits. Full tax deferral occurs if AGI is below $25,000 ($40,000 for joint filers); partial tax deferral is allowed up to an AGI of $35,000 ($50,000 for joint filers). Most filers with earnings (82%) were below the partial deferral limits in 1991, but the limits have not been adjusted for inflation.

IRAs grew rapidly after the 1981 legislation. The number of tax returns with IRA contributions rose from 3.4 million in 1981 to 16.2 million in 1985. However, this number fell to 7.3 million in 1987 following the 1986 Tax Reform Act. IRAs were especially favored by taxpayers in high tax brackets, who have the most discretionary income and gain the most from

deferring taxes. However, the incentive for these taxpayers to make IRA contributions declined after 1986 because of the income limitation on deferrals for those in employer-sponsored plans and lowered Federal income tax rates. Still, funds in IRAs continue to accrue investment earnings on a tax-deferred basis, and new contributions, even if not tax-deferred, do earn tax-deferred investment income. IRAs were owned by 29% of tax filing units in 1987. IRA assets totalled $453 billion at the end of 1990. (For further information, see CRS Issue Brief 89085, *Individual Retirement Account Issues and Savings Account Proposals*, by James R. Storey.)

LEGISLATION

H.R. 11 (Rostenkowski)
Includes the "Super IRA" provisions of S. 1921, plus allowance of penalty- free withdrawals for a first home purchase, education expenses, catastrophic medical expenses, and the needs of persons who have received unemployment benefits for at least 12 weeks. Raises the income limits for full deductibility to $75,000 ($100,000 for joint filers). Passed the House Oct. 5, 1992. Passed the Senate Oct. 8, 1992. Pocket vetoed, effective Nov. 5, 1992.

James R. Storey

MLC-063

PENSION BENEFIT GUARANTY CORPORATION

...PBGC single-employer plan deficit of $2.5 billion...

The Pension Benefit Guaranty Corporation (PBGC) insures private pensions for 40 million persons participating in 85,000 defined benefit plans. Thirty-two million persons participate in 83,000 single-employer plans and 8 million participate in 2,000 multiemployer plans. PBGC has a large and growing deficit ($2.5 billion) from single-employer plans that have already ended and faces the potential for much larger losses in the future. Without legislative reforms, PBGC contends that its financial condition is likely to deteriorate and pension protection could suffer.

Private sector defined benefit plans insured by the PBGC are generally well funded. While most plans have more assets than needed to pay claims already earned, pockets of underfunding are found primarily in the unionized manufacturing and transportation sectors of the economy. According to PBGC, about $31 billion of underfunding exists in single- employer plans covering about 5 million participants, concentrated in the steel, airline, tire, and automobile industries. PBGC's analysis shows "reasonably possible losses" of about $13 billion in single-employer plans sponsored by about 80 financially troubled companies.

While the Employee Retirement Income Security Act of 1974 (ERISA) states that the United States is not liable for any obligation or liability incurred by the Corporation, concern has been voiced that taxpayer money may be necessary if PBGC is to continue to honor the private pension claims that it insures.

Because premiums are not truly related to the risk that a plan will end, sponsors of financially healthy plans are essentially cross- subsidizing unhealthy ones. Premium rates for single-employer plans have increased significantly since the termination insurance program was established in 1974. There is concern about how high premiums can be raised before sponsors of well- funded plans decide to end their defined benefit arrangements. Moreover, it is contended that the existence of a pension guaranty creates a "moral hazard," since plan sponsors, unions, and participants know that regardless of the plan's financial condition, most of the benefits will be paid even if the plan is underfunded.

The Administration has proposed a three-part legislative package (H.R. 4545) that is intended to shore up the single-employer insurance fund's financial condition without resorting to further increases in premiums. Specifically, the Corporation is seeking legislation to increase minimum pension funding requirements in underfunded plans, improve the status of PBGC claims against plan sponsors in bankruptcy, and freeze guarantees at current levels (by not insuring benefit improvements) in plans that remain underfunded.

Many American workers and retirees have come to expect that their pensions will be protected. However, PBGC's dire financial straits and future conditions in certain sectors of the economy may put this guaranty to a test. Coming on the heels of the S&L collapse and the massive taxpayer bailout, the situation causes alarm. Unless significant changes are made in the way pension insurance is priced and benefits are funded, it may be necessary to curtail the portion of the pension promise that Government can guarantee.

For further information, see CRS Issue Brief 92106, *Pension Benefit Guaranty Corporation: Proposals to Shore Up the Single-Employer Program*, by Ray Schmitt.

LEGISLATION

H.R. 3837 (Pickle)
The Federal Program Improvement Act of 1992. Requires the PBGC to submit a report to Congress on each pension plan having unfunded liabilities of $25 million or more, or who were granted a funding waiver in excess of $1 million. Passed by the House by a voice vote on Aug. 3, 1992; referred to the Senate Committee on Finance. Included as Section 7901 of H.R. 11, the Revenue Act of 1992. Conference report passed by House of Representatives on Oct. 5, 1992; passed by Senate on Oct. 8, 1992.

Ray Schmitt

MLC-064

PENSION SIMPLIFICATION

...employers have called for simplification...

Employers and their pension advisers, alarmed at the growing complexity of pension rules, have called for simplification. They argue that current rules cost too much to administer, discourage formation of new defined benefit plans and continuation of old ones, and, in some cases, no longer accomplish their stated objectives. Critics are concerned with two key issues. First, would proposed simplifications change substantive pension policies in ways contrary to the intent of Congress? Second, how much Federal revenue would be lost? How could losses be offset to comply with budget restrictions? Who would be affected by such measures?

In the last 18 years, Congress has passed 13 major laws affecting pension plans of private employers. This growth in Federal restrictions on pensions began with the landmark Employee Retirement Income Security Act (ERISA) of 1974. The aims of ERISA were mainly to strengthen plan funding and safeguard the rights of participants. Subsequent laws have often sought to improve equity. Most recent changes have been aimed at raising Federal revenue and reducing the budget deficit.

The pension simplification debate led Senators Bentsen and Pryor to propose the Employee Benefits Simplification and Expansion Act of 1991 (S. 1364). Representative Rostenkowski proposed the Pension Access and Simplification Act of 1991 (H.R. 2730), and other proposals were introduced. The Bush Administration announced its own pension simplification proposals in the President's 1993 budget and had them introduced in H.R. 4150 and S. 2217. These bills represent relatively modest efforts to reduce the complexity of pension law, since broader changes would necessarily bring about important policy shifts.

One of the more controversial proposals would provide a "safe harbor" from compliance with the nondiscrimination test for contributions to salary reduction retirement plans (e.g., 401(k) plans). Any plan with employer matching that met a minimum standard of generosity would be considered in compliance, regardless of whether contributions by highly compensated employees (HCEs) are excessive relative to those of other employees under the nondiscrimination test.

Other proposed simplifications would affect the definition of an HCE; the timing of inflation adjustments of benefit and contribution limits; rules for minimum participation by employees; rules for distribution of pension income; the tax treatment of lump-sum pension distributions; the ages used to determine penalties for early and late withdrawals; simplified employer pensions (SEPs); plan funding limits; employer responsibility for leased employees; the applicability of limitations to government plans; vesting rules; and the use of Internal Revenue Service master and prototype plans.

Provisions of the Rostenkowski bill were included in H.R. 4210, an economic stimulus measure passed by the House on Feb. 27, 1992. Companion legislation passed by the Senate on Mar. 13, 1992, included the Bentsen proposals. A conference agreement was adopted on Mar. 20, 1992, but vetoed the same day. Many of these provisions were then included in the urban aid tax bill (H.R. 11), which was passed Oct. 8, 1992 and pocket vetoed, effective Nov. 5, 1992. (For further information, see CRS Issue Brief 90123, *Simplification of Pension Rules: Proposals and Issues*, by James R. Storey.)

LEGISLATION

H.R. 11 (Rostenkowski)
Urban aid tax bill that includes pension simplification provisions similar to those in the vetoed H.R. 4210. Passed House Oct. 5, 1992; passed Senate Oct. 8, 1992. Pocket vetoed, effective Nov. 5, 1992.

James R. Storey

MLC-065

REFUNDABLE EARNED INCOME TAX CREDITS

...Congress urged to modify EITC expansion...

The earned income tax credit (EITC) is in a phased expansion approved in 1990, but Congress has been urged to modify it because tax form complexity may discourage eligibles from filing. Meanwhile, proposals to enlarge the EITC further and to enact new refundable credits were being considered. Three ideas have been advocated: (1) replacing or supplementing children's personal income tax exemptions with refundable tax credits; (2) offsetting part of social security taxes with refundable credits; and (3) further improving the EITC. An economic stimulus package (H.R. 4210) vetoed by President Bush on Mar. 20, 1992, included proposals for a temporary credit against social security taxes and EITC simplification. On Oct. 8, 1992, Congress passed the urban aid tax bill (H.R. 11), which includes EITC simplification. However, the bill was pocket vetoed by the President, effective Nov. 5, 1992.

The 1992 personal exemption reduces taxable income by $2,300 for each individual in a filing unit. The

higher the tax rate to which the taxpayer is subject, the greater the reduction in taxes. Tax credits, in contrast, provide a uniform tax offset regardless of the tax rate. The refundable feature results in a cash payment to filers whose credits exceed their tax liability. President Bush's FY1993 budget proposed a $500 increase in children's exemptions but no change in refundable credits.

The EITC is a refundable Federal income tax credit available to families with dependent children in which a family member works and family income is less than $22,370. An eligible parent may receive the credit after the tax year ends or by advance payments during the year (by "negative withholding" in the paycheck). At year's end, if the credit exceeds tax liability, the U.S. Treasury pays the balance to the family. The EITC has been expanded twice during the past 5 years. The Tax Reform Act of 1986 raised the maximum credit amount by 55% and indexed it for annual inflation. The Omnibus Budget Reconciliation Act of 1990 increased the maximum credit amount by another 64%, phased in over 4 years, and added credits for families with more than one child, those with a child under 1 year of age, and those paying health insurance premiums for children. In 1992, the basic EITC equals 17.6% of yearly earnings up to earnings of $7,520. The maximum credit ($1,324) is reduced by 12.57 cents per dollar of adjusted gross income (AGI) in excess of $11,840. The EITC is reduced to $0 when AGI reaches $22,370. Additional credit amounts are available if a family has more than one child (+0.8 percentage points in 1992), has a child under age 1 (+5.0 percentage points), or pays health insurance premiums for its children (+6.0 percentage points). These latter two supplemental credits are the target of those who want to simplify filing for the EITC. The 1990 law calls for further increases in the basic credit rate, up to 23% for a family with one child and 25% for a family with two or more children in 1994. Credit reduction rates are to increase to 16.43% and 17.86% respectively, to maintain the same inflation-adjusted income eligibility cutoff.

Several proposals have made wider use of refundable tax credits as a floor under family income. Senator Bradley proposed a child tax credit. Senator Rockefeller would have replaced children's personal income tax exemptions with refundable tax credits and increased EITC for large families. Senator Gore and Representative Downey would have converted children's exemptions to credits and expanded and simplified the EITC. Senator Grassley and Representative Wolf proposed making the EITC more generous for families with children under age 5. These proposals raised key issues: the resulting income redistribution, effects on work incentives, and how to pay for the proposed benefits.

The urban aid tax bill (H.R. 11) included a measure to simplify the EITC. It would have allowed a child's health insurance premium for which a credit is received to be counted also as a medical expense deductible from AGI. The bill also extended EITC eligibility to military families stationed outside the United States. (For further information, see CRS Issue Brief 91120, *Refundable Tax Credits for Families with Children*, by James R. Storey.)

LEGISLATION

H.R. 11 (Rostenkowski)
Simplifies interaction between calculation of supplemental credit for child health insurance premium and medical expense deduction from AGI. Passed House Oct. 5, 1992; passed Senate Oct. 8, 1992. Pocket vetoed, effective Nov. 5, 1992.

H.R. 4210 (Gephardt)
Tax Fairness and Economic Growth Act of 1992. Introduced Feb. 2, 1992. Passed House, Mar. 20, 1992. Passed Senate, Mar. 20. Vetoed, Mar. 20, 1992.

James R. Storey

MLC-066

SOCIAL SECURITY AS AN INDEPENDENT AGENCY

...should SSA be independent?...

The Social Security Administration (SSA) is an agency of the Department of Health and Human Services (HHS), and the Commissioner of Social Security reports to the Secretary of that Department. As an employer, SSA is the largest agency within HHS and the ninth largest within the Federal Government.

Interest in making SSA independent of HHS dates back to the early 1970s when social security's impact on fiscal policy was made more visible by the inclusion of the program in the Federal budget. The calls for independence increased in the 1982-1984 period as the program was repeatedly brought up in congressional budget discussions. Seeing it as unique among social programs because of its self-financing nature and "implied compact" with the nation's workers to pay "earned" benefits, proponents of independence want to insulate social security from everyday fiscal policy decisions. They feel this outcome would be more likely to occur if SSA were run by an independent bipartisan board. They also feel the increased stature that independence would give the agency would lead to more continuity of top management and result in a better- run organization. They contend that making

the agency independent and adopting other measures to insulate it from political and budgetary discussions are needed to reassure the public about social security's long-run survivability.

Opponents of independence argue that social security takes in too much revenue and spends too much to be isolated. They argue that its financial implications for the economy and the segment of society it serves are too large to permit it to escape the "hard" choices of fiscal policymaking. They contend that social security is by definition a social program -- not a contractual pension system -- and should be continuously evaluated in conjunction with other economic and social functions of the Government. Some would even suggest that making SSA independent goes in the wrong direction in organizing the executive branch, arguing that Federal income security policy -- including that which bears upon social security -- needs to be better coordinated through the creation of a broad-scale commission or cabinet department of income security in which SSA would be a component.

Since 1986, a number of attempts have been made in Congress to make SSA an independent agency. None, thus far, has succeeded. The Administration generally opposes the idea, and a disagreement persists between the House and Senate over how such an agency should be administered. The House prefers that it be run by a three-member bipartisan board; the Senate prefers a single administrator. In past congresses, the House passed its version a number of times and the Senate Finance Committee approved alternative versions. In the 102d Congress, the House passed its version again and the Senate Finance Committee endorsed its version. However, the Finance Committee's bill was not taken up by the full Senate before the Congress adjourned sine die. (For further information, see CRS Issue Brief 86120, *Social Security: The Independent Agency Question*, by David Koitz.)

LEGISLATION

H.R. 5429 (Jacobs)
Establishes SSA as an independent agency. Introduced June 18, 1992; referred to Committee on Ways and Means. Passed House, June 29, 1992.

S. 33 (Moynihan)
Establishes SSA as an independent agency. Introduced Jan. 14, 1991; referred to Committee on Finance. Reported, with an amendment in the nature of a substitute, June 26, 1992 (S.Rept. 102-304).

David Koitz

MLC-067

UNEMPLOYMENT INSURANCE

...additional weeks of assistance provided...

President Bush signed legislation (P.L. 102-318, H.R. 5260) on July 3, 1992 to extend emergency unemployment compensation (EUC) benefits through Mar. 6, 1993. It also makes changes in the permanent Federal-State extended benefits (EB) program.

P.L. 102-318 provides 26 weeks of EUC in high unemployment States and 20 weeks in all other States. However, those who began claiming benefits before June 14, 1992 may continue to receive the full amount of EUC weeks (33 in high unemployment States, 20 in other States) to which they were entitled to under prior law. EUC is paid on top of the standard 26 weeks of regular State unemployment compensation (UC), bringing the total for both regular UC and EUC to between 39 and 46 weeks.

P.L. 102-318 provides for a gradual phasing-down of EUC benefits if the national unemployment rate falls before March 1993. The number of weeks of EUC would be reduced when the total unemployment rate for the nation falls below 7%.

In addition to extending the EUC program, the legislation changes the permanent Federal-State extended benefits (EB) program. EB, which is supposed to automatically trigger additional benefit weeks in States with high unemployment, was available in only 8 States and Puerto Rico during 1991 prior to becoming superseded by EUC. The EB trigger uses the insured unemployment rate (IUR), which is based on the number of claims for regular State benefits.

P.L. 102-318 permits States the option of choosing an alternative trigger if it did not meet the current law trigger. The alternative trigger uses the State total unemployment rate (TUR). The alternative permits States to trigger EB when its TUR is at least (1) 6.5% and (2) 110% of its rate in either of the previous 2 years. CRS estimates that if this option were in place, 36 States, the District of Columbia, and Puerto Rico could have triggered on EB at some time from July 1990 and June 1992.

While the availability of extended assistance is the focus of the current legislative debate, P.L. 102-318 also makes changes to the permanent UC program. It has provisions relating to "short-time compensation," benefits for those unemployed part-time, and requires that information be given to UC recipients on the taxation of UC benefits.

P.L. 102-318's additional benefits are paid for through revenue raised by selected changes in the tax code. The additional benefits are reported to cost an estimated $5.5 billion. A letter from Office of Manage-

ment and Budget (OMB) Director Richard Darman to House Ways and Means Committee Chairman Dan Rostenkowski says that P.L. 102-318 would not cause a sequester under the BEA pay-as-you-go rules because of the offsetting revenue increases in the bill and "surplus" pay-as-you-go spending cuts and tax increases from previously enacted legislation. (For further information, see CRS Issue Brief 92027, *Unemployment Compensation: Legislative Issues for 1992*, by Gene Falk, Dawn Nuschler, and James R. Storey.)

LEGISLATION

P.L. 102-244, H.R. 4095

Amends the EUC program to provide up to 33 weeks of EUC benefits in high unemployment States and 26 weeks of EUC benefits in all other States for those who begin claiming EUC on or before the week of June 13, 1992. Those who begin claiming EUC after that week would be eligible for either 20 or 13 weeks of EUC, depending on unemployment conditions in their State. Extends the program through Oct. 2, 1992. Exempts the additional spending on benefits from the pay- as-you-go provisions of the Budget Enforcement Act. Introduced Jan. 23, 1992; referred to Committee on Ways and Means; an amended bill approved by Committee on Ways and Means on Jan. 28, 1992; reported to House (H.Rept. 102-427) on Jan. 29, 1992; passed House (amended) on Feb. 4, 1992; signed into law on Feb. 7, 1992.

P.L. 102-318, H.R. 5260

Extends the Emergency Unemployment Compensation Program through Mar. 6, 1993 and revises the trigger provisions contained in the extended unemployment compensation program. Introduced May 26, 1992; referred to Committees on Ways and Means and Government Operations; reported by Committee on Ways and Means on May 27, 1992 (H.Rept. 102-543). Passed by House June 9, 1992. Passed the Senate on June 19, 1992. Conference report (H.Rept. 102-650) approved by both the House and Senate July 2, 1992. Signed into law on July 3, 1992.

Gene Falk and Dawn Nuschler

MLC-068

WELFARE

record-large welfare rolls

In response to steadily rising and record-large family welfare rolls, high rates of child poverty, and State budget shortages, the 102d Congress passed legislation to expand Federal funding for efforts to promote employability of mothers enrolled in the program of Aid to Families with Dependent Children (AFDC). However, these provisions were embedded in H.R. 11 (Revenue Act of 1992), a massive and controversial bill that was pocket- vetoed by President Bush, effective November 5. Also killed by the veto of H.R. 11 were several changes in AFDC law aimed at encouraging savings and self-employment of recipients and authorization for a demonstration of a community works progress (public jobs) program. Signed into law (P.L. 102-521) was a free-standing bill (S. 1002) that makes it a Federal crime to willfully fail to pay overdue child support on behalf of a child in another State.

The Family Support Act (P.L. 100-485) requires all States to establish a Job Opportunities and Basic Skills (JOBS) program. Provided their resources permit it, States must operate JOBS for AFDC mothers without a child under 3 and for high school dropout parents with even younger children. These mothers must work, study, or train for work, at least part time. However, since JOBS began in 1989-1990, 2 years of record-breaking AFDC caseloads and sharp increases in Medicaid have strained State budgets, led to some benefit cuts, and produced a difficult environment for the program. States, which must match Federal funds, used only part of the $1 billion annual appropriation in FY1991- 1992. Congress responded in the final version of H.R. 11 by offering States an extra $100 million each for FY1993 and FY1994 and by reducing the State matching share of JOBS costs for 3 years (through FY1995). Other AFDC provisions in this vetoed measure would have: allowed States to promote savings (up to $8,000) by AFDC recipients for specified purposes and to liberalize treatment of income and assets of self-employed recipients; required States to exclude student earnings as assets and to extend the disregard of student earnings to teen parents; and required annual reports on "welfare dependency."

In his State of the Union message, President Bush pledged to make it easier for States to alter AFDC, and his Administration granted to several States waivers from Federal law that allow tests of program changes that seek varied goals, including: promotion of work, schooling, and marriage; deterrence of repeat childbearing and of migration for higher benefits.

The 102d Congress held a hearing on a proposal to guarantee payment of a minimum benefit to children with a child support order but took no action on legislation to convert the income tax exemption into a refundable tax credit, alter the AFDC matching rate formula, impose new work rules, set an AFDC benefit floor, or impose a time limit on AFDC eligibility. The first two proposals were recommended by the National Commission on Children, and the last proposal was in the Democratic platform (2-year limit, with follow-up public service jobs, if needed) and in a Republican bill (4-year limit).

In the first 11 months of FY1992, a monthly average of 13.6 million persons (9.2 million children) in 4.7

million families received AFDC benefits averaging $384 per family. Federal funds paid about 54% of the cost.

Legislative Action. The 102d Congress passed two bills affecting AFDC, JOBS, and child support, H.R. 11 and S. 1002, but only the latter was signed into law. *H.R. 11.* The final version of this revenue bill, approved by the House and Senate on Oct. 5 and Oct. 8, 1992, respectively, but pocket-vetoed by President Bush, would have made several welfare changes. *JOBS.* The bill authorized an extra $100 million for JOBS in FY1993 and 1994 (raising ceilings to $1.1 and $1.2 billion, respectively) and offered more generous Federal matching rates for 3 years (increases of 15, 12, and 4 percentage points, respectively, in 1993-1995) for amounts above the State's 1987 WIN allotment and for administrative costs. Under this provision, the FY1993 share of the cost of JOBS activities paid by Federal funds would have ranged among the States from 75 to 95% (compared with the existing 60-80% range) and for administrative costs would have risen to a flat 65% (from 50%) in all States). The bill liberalized the 20-hour weekly JOBS "participant" rule for students in a degree program at an institution of higher institution, providing two hours credit as a JOBS participant for each hour of classroom instruction. *Community Work Progress (CWP) Demonstration.* H.R. 11 authorized $200 million over 3 years for 6 CWP demonstration projects to provide public jobs and work- related services to noncustodial parents in arrears on child support, AFDC recipients, or persons "at risk" of becoming eligible for AFDC. Grantees (States and units of local government), to be chosen by the Secretary of Labor in consultation with the Secretary of Health and Human Services, would have been required to pay at least 125% of the minimum wage to noncustodial parents, but could instead have paid the prevailing wage. Similarly, to calculate the hours of work required of an AFDC recipient, the grantee could not have divided the AFDC benefit by an amount smaller than 125% of the minimum wage, but could have used the prevailing wage as the divisor. (In projects not intending to use the prevailing wage calculation, the project application would have been required to include written concurrence of any local labor organization representing area workers doing similar work.) Volunteers were to be given first priority, but project applicants would have been required to give assurances that the relevant child support agency would seek court-ordered enrollment in CWP of unemployed parents who were at least 2 months in arrears on child support and that the AFDC agency would refer families to CWP. Enrollees were to work no more than 32 hours weekly on a CWP. They were to receive necessary costs of child care, transportation, uniforms or other work materials. No compensation or benefits received for CWP participation was to be treated as income by any Federal or federally assisted program based on need. Projects would have been required to serve a useful public purposes but not supplant existing activities. (The CWP provision evolved, in modified form, from a comprehensive CWP bill, S. 2373, introduced by Senator Boren, and was added to H.R. 11 by the Senate Finance Committee.) *Savings. Students, Self- Employment.* The bill gave States the option to raise the assets limit per recipient family from $1,000 to $8,000, provided the "excess" funds were placed in a "qualified asset account" and earmarked for one or more of these purposes (education or training; improvement of employability, including auto purchase; home purchase; and change in family residence). It permitted a nonrecurring lump sum to be placed in the account and provided that earnings from the account would be disregarded as income. (This evolved from a budget proposal by President Bush for "AFDC set-aside amendments" embodied in H.R. 4150 and was written into H.R. 11 in modified form by the Ways and Means Committee and then changed by the Senate Finance Committee. Conferees wrote the final terms.) The bill required States to ignore as *income* all earnings of *students* working less than full time who were applicants for or recipients of AFDC up to age 20 (including parents) and earnings of youths participating in a Job Training Partnership Act (JTPA) program; these earnings also were to be disregarded for purposes of the gross income family limit (185% of the need standard) and States were given the option to disregard them in whole or part as *resources*, under terms decided by States. To promote self- employment, the bill also gave States an option to exclude from countable *resources* the first $10,000 of net worth of an AFDC recipient's microenterprise (a commercial enterprise with no more than 5 employees and owned by one or more of the employees) and, for up to 2 years, to count only "net profits" as income (provision drawn from H.R. 2258 and written into H.R. 11 by the Ways and Means Committee). *Other.* The bill eliminated the ban on using work supplementation (jobs subsidized by the welfare grant) for unfilled position vacancies (provision of S. 1188 added to H.R. 11 by the Finance Committee), increased the standard earnings disregard for a stepparent to that for AFDC recipients ($90 monthly), changed the JOBS allocation formula for Indian tribes, required the HHS Secretary to measure and provide annual reports on "welfare dependency" (provision drawn from S. 1256, which passed the Senate Jan. 29, 1992); required the Secretaries of HHS and Agriculture to report on differences in rules among the AFDC, food stamp, and Medicaid programs (provision drawn from H.R. 4046/S. 1883, and written into H.R. 11 by the Ways and Means Committee). The bill includes numerous provisions about

AFDC foster care and child welfare services (see CRS Issue Brief 90145, *Child Welfare and Foster Care Reform: Issues for Congress*, by Karen Spar). For further information, see CRS Issue Brief 87007, *Welfare*, by Vee Burke.

LEGISLATION

P.L. 102-521, S. 1002

Child support. Imposes a Federal criminal penalty for willful failure to pay past-due child support for a child in another State. First introduced as H.R. 1241 by Representative Hyde in a different form, it passed the House after amendment on Aug. 4, 1992; a different version (S. 1002) passed the Senate Sept. 18, 1992, and the final bill was adopted on October 3 and October 7, respectively, by House and Senate. Signed into law Oct. 25, 1992

H.R. 5304 (Frank)

Child support. Provides that a State court may not modify an order of another State court requiring payment of child support orders unless the recipient of child support payments resides in the State in which the modification is sought, or consents to seeking the change in the other court. Introduced June 2, 1992, reported by the Judiciary Committee with an amendment Oct. 2, 1992, and passed the House Oct. 3, 1992. However, it died in the Senate, which took no action on the bill.

S. 2514 (Bumpers)

Child Support. Child Support Tax Equity Act. Permits custodial parents to deduct unpaid child support from taxable income (requires these sums to be included in taxable income of noncustodial parents). Introduced Apr. 2, 1992; referred to Committee on Finance. Added to H.R. 11 by Senate Committee, but rejected by conferees.

S. 2881 (Dole)

AFDC. Permits *one* adult to attest to the citizenship/alien status of all family members. Introduced June 23, 1992; referred to Committee on Finance. Similar provisions included in House and Senate versions of H.R. 11.

Vee Burke

LABOR

STRIKE REPLACEMENTS

...public concern heightened...

Recent acrimonious strikes in which permanent replacement workers were hired, such as those at Greyhound and Eastern Airlines, have heightened concern about the practice of hiring permanent replacement workers and its implications for labor-management relations.

Legislation (H.R. 5 and S. 55) was introduced in the 102d Congress to amend the National Labor Relations Act (NLRA) and the Railway Labor Act (RLA) by prohibiting employers from hiring permanent replacement workers during a strike, or giving employment preference to crossover employees. H.R. 5 was passed by the House with an amendemnt in the nature of a substitute on July 17, 1991. S. 55 was introduced Jan. 14, 1991, and was reported by the Committee on Labor and Human Resources with an amendment in the nature of a substitute on July 18, 1991. S. 55 was debated by the full Senate on June 11, 1992, but a vote on the same day to invoke cloture failed by 5 votes (55-41). Subsequently, an amended version of S. 55 was proposed. S. 55, as amended, would have prohibited an employer from hiring permanent strike replacements if the union agreed to send the parties' dispute to a three-member fact-finding panel, and the union accepted the panel's recommendations. If the union rejected the panel's recommendations, the employer would be free to hire permanent replacement workers. A second cloture vote on S. 55, on June 16, 1992, also failed (57-42). The 102d Congress adjourned without further action.

Proponents of H.R. 5 and S. 55 argued that balance needs to be reestablished in labor-management disputes by strengthening the right to strike and its efficacy as a bargaining tool, which they believe has been significantly weakened by employer use of permanent replacement workers. While the right to use permanent replacements has existed since 1938, it is only in the 1980s, they argued, that it has been successfully and widely used as a subterfuge for "union-busting." Proponents of these bills argued that the use of permanent replacement workers in effect prevents union members from exercising the right to strike provided under the NLRA and RLA. This is so, they argued, because employers may simply permanently replace strikers and retain less senior crossovers, thus effectively conveying the message to employees that to engage in a strike will result in the loss of one's job.

Opponents of this legislation argued that the NLRA and the RLA as they stand reflect painstaking efforts to achieve and maintain a balance between the interests of employers and employees. They argued

that the status quo regarding the use of permanent replacements in strikes reflects a well established principle of law which dates back to 1938 and has been upheld many times subsequently. Opponents also argued that employers have had the right to hire permanent replacement workers under the law for over 50 years and that unions cannot realistically expect them never to use that right.

(For more information on this subject, see CRS Issue Brief 92010.)

LEGISLATION

H.R. 5 (Clay)/S. 55 (Metzenbaum)

Amends the NLRA and the RLA by prohibiting employers from hiring permanent replacement workers during a strike or giving employment preference to crossover employees. H.R. 5 introduced Jan. 3, 1991; referred to Committees on Education and Labor, Energy and Commerce; and Public Works and Transportation. Subcommittee hearings held Mar. 6 and 13; Apr. 9 and 10, 1991. Reported, amended, by Committee on Public Works and Transportation, May 9, 1991 (H.Rept. 102-57, Part I). Reported, amended, by Committee on Energy and Commerce June 3, 1991 (H.Rept. 102-57, Part II). Reported, amended, by Committee on Education and Labor June 27, 1991 (H.Rept. 102-57, Part III). Passed House with an amendment in the nature of a substitute (247-182) July 17, 1991. S. 55 introduced Jan. 14, 1991; referred to Committee on Labor and Human Resources. Subcommittee hearings held Mar. 12, 1991. Reported by Committee on Labor and Human Resources with an amendment in the nature of a substitute July 18, 1991. On June 9, 1992, the measure was laid before the Senate and a cloture motion was presented. A cloture vote failed (55-41) June 11, 1992. On June 12, S. 55 was modified. A second cloture vote, on June 15, 1992, also failed (57-42).

Gail McCallion

LAW, CRIME, AND JUSTICE

MLC-070

CRIME CONTROL AND CORRECTIONS

omnibus crime and drug control bills not enacted

Crime control efforts at the Federal level traditionally have been concerned with problems considered to be of national scope. These include the policing of the Nation's borders, regulating interstate and foreign commerce in commodities associated with criminal activities (such as firearms), combatting espionage and terrorism, and maintaining law and order in areas subject exclusively to Federal jurisdiction (such as Federal buildings and Indian reservations). Since the late 1960s, however, a number of grant programs have also supplied funds and technical assistance to States and localities for various purposes related to law enforcement and criminal justice.

Federal legislation aimed at stemming the increase in drug-related and other crime in recent years has resulted in significant increases in the Federal prison population. This has caused serious overcrowding in some Federal prisons and required substantially increased expenditures to pay for prison expansion and renovation. The Anti-Drug Abuse Acts of 1986 and 1988, as well as regular appropriations and transfers of funds from seized criminal assets, have provided much of the funding for new prison space. Congress approved an appropriation of $339.2 million for Federal prison building and facilities expansion for FY1993.

Three major omnibus crime and drug control bills, H.R. 1400/S. 635 (Michel/Thurmond), H.R. 3371 (Brooks/Schumer), and S. 1241 (Biden) were considered in the 102d Congress, but none achieved enactment. The principal policy issues addressed in these and similar bills include expansion of the Federal death penalty, Federal habeas corpus revision, regulation of firearms, youth violence, anti-terrorism, aid for State and local law enforcement, and drug testing of criminal offenders on post- conviction release. Some proposals included provisions dropped from the final version of the Crime Control Act of 1990 (P.L. 101-647).

On Nov. 21, 1991, the House approved a conference agreement (H.Rept. 102-405) on H.R. 3371, the Violent Crime Prevention Act of 1991, an omnibus bill for crime, drug, and gun control. The Senate failed to pass a cloture motion on Nov. 27, 1991, again on Mar. 12, 1992, and on Oct. 2, 1992. The measure failed to secure passage during the 102d Congress.

(For further information, see CRS Issue Briefs 90078, *Crime Control: The Federal Response*, and 92061, *Prisons: Policy Options for Congress*.)

LEGISLATION

H.R. 1400 (Michel, by request)/S. 635 (Thurmond and Dole, by request)

Comprehensive Violent Crime Control Act of 1991. An omnibus, 11- title bill. Establishes procedures necessary to carry out the Federal death penalty for offenses for which it already is allowed and to extend the possibility of the penalty to murder committed in violation of certain Federal statutes other than the drug control statutes that currently permit it; allows the penalty for drug kingpin offenses even when death has not occurred. Contains provisions designed to ensure equal justice in the application of the death penalty. Creates restrictions on the use of Federal *habeas corpus* petitions by State prisoners and requires deference in Federal

proceedings to the results of full and fair State court determinations. Narrows the application, in Federal criminal proceedings of the Federal exclusionary rule, admitting evidence obtained in "good faith" with or without a warrant. Contains various provisions related to firearms, including one to double the mandatory penalty enhancements for use of a gun in committing a Federal crime of violence or a drug felony if the gun was a certain type of semiautomatic. Restricts commerce in large- capacity ammunition feeding devices; establishes higher penalties for obstruction of justice offenses against court officers and jurors; changes existing law provisions regarding the records of Federally prosecuted juveniles; repeals a statute that authorizes the pre-judgment probation for certain drug offenders and that requires the expungment of records for such an offender who is under 21; broadens the option of adult prosecution for serious juvenile offenders and gang leaders; and enlarges scope of the Armed Career Criminal Act to include certain juvenile offenders. Contains other provisions designed to expand victims' rights, curb sexual violence and child abuse, and deter terrorism. H.R. 1400 introduced Mar. 12, 1991; referred to Committee on Judiciary. S. 635 introduced March 13; referred to Committee on Judiciary.

H.R. 3371 (Brooks, Schumer)

Violent Crime Prevention Act of 1991. As reported, contained 31 titles. Reinstates the death penalty for about 50 crimes, including espionage, treason, and major drug offenses committed by a drug kingpin as part of a continuing criminal enterprise. Codifies the good faith exception to the Federal exclusionary rule. Incorporates the Senate version of the "Brady Bill." Increases penalties for the criminal use of firearms. Contains the House bill's provisions to expedite Federal habeas corpus proceedings involving State prisoners under sentence of death. Increases penalties for violent crimes and drug trafficking. Generally combines funding provisions of House and Senate bills. Authorizes total appropriations of approximately $3.5 billion for FY1992 through FY1996. Directs the Attorney General to develop a strategy to coordinate gang- related investigations by Federal law enforcement agencies. Contains titles pertaining to Terrorism, Prisons, Rural Crime, Computer Crime, Protection of Youth, Victims of Crime, Motor Vehicle Theft Prevention, Protection for the Elderly, Financial Institutions Fraud Prosecutions, Consumer Protection, Savings and Loan Prosecution Task Force, Parental Kidnapping, and Safe Schools. Introduced Sept. 23, 1991; referred to Committees on Judiciary and on Ways and Means. Reported by Judiciary, amended (H.Rept. 102-242, Part I), Oct. 7, 1991. Reported by Ways and Means, amended (H.Rept. 102-242, Part II), October 9. Passed House, amended, October 22. Passed Senate, with text of S. 1241 substituted, November 21. Conference report (H.Rept. 102-405) passed House, November 27. Senate vote on cloture failed Nov. 27, 1991; subsequent votes on cloture motion failed, Mar. 19, 1992, and Oct. 2, 1992.

S. 1241 (Biden)

Violent Crime Control Act of 1991. Omnibus, 49-title bill. Major provisions were as follows. Authorizes $1 billion in aid to State and local law enforcement agencies. Authorizes the death penalty for a variety of Federal offenses including the murder of a Federal law enforcement agent or a State law enforcement agent working with a Federal officer. Anti-terrorism provisions authorize the death penalty for terrorist murders committed at home or abroad and permit the FBI to investigate and arrest those who finance and arm terrorist groups. Makes drug-related drive-by shooting a Federal offense, punishable by up to 25 years in prison and by death if death results. Bans importation of semiautomatic firearms covered by the bill's definition of "assault weapon" (certain specified models). Authorizes $400 million to create a "police corps" by funding scholarships for qualified college students who would commit to 4 years' service as police officers. Requires States to establish a police officers' bill of rights that provided standards for internal investigations. Authorizes additional funding for DEA, FBI, Border Patrol, and INS agents, as well as for additional Federal prosecutors; also authorizes additional sums for public defenders, the Marshals Service, and the courts. Limits death row prisoners to one *habeas corpus* petition; requires States to provide competent counsel in capital cases. Increases penalties for use of a gun in committing a Federal drug trafficking crime or crime of violence. Authorizes funds for the creation of a Federally run system of 10 regional prison facilities to treat Federal and State prisoners addicted to drugs. Authorizes $150 million for the creation of 10 military-style boot camps for the treatment of certain drug offenders under the age of 25. Establishes a new grant program (administered by the Department of Justice) designed to reduce the formation or continuation of juvenile gangs. Expands the rural drug enforcement program established under the Crime Control Act of 1990. Creates a new $300 million (for each of 5 fiscal years) program to provide emergency Federal assistance to areas in which drug trafficking or abuse or drug-related violence reached levels determined to warrant it. Increases existing penalties for drunk driving in areas subject to Federal jurisdiction, or by a common carrier, when a child was in the vehicle. Creates two national commissions, one to develop a plan for combatting crime in American society and the other to study and recommend changes regarding Federal, State, and local law enforcement agencies. Eliminates the cap on the crime victim fund, includes a Victims' Bill of Rights, and requires that defendants pay crime victims' expenses. Authorizes a new civil remedy to evict drug dealers from crack houses. Codifies the standard for admissibility of evidence established by the Supreme Court decision in *U.S. v. Leon*. Expands existing statutory authority for a demonstration program to require periodic testing for drug use of all Federal offenders on post-conviction conditional release. Increases the maximum penalty for certain violent crimes. Increases penalties for offenses against court officers, jurors, witnesses, and victims. Contains provisions of H.R. 7, the Brady Handgun Violence Protection Act (See Issue Brief 89093), but also establishes a program of grants to the States for the improvement and automation of their central criminal record system. Requires Federal and State court clerks to notify IRS and Federal and State prosecutors when a defendant charged with a drug offense, a Racketeer Influenced and Corrupt Organizations Act (RICO) violation, or money laundering posted bail in cash. Instructs the Attorney General to devise a voluntary vehicle theft protection program. Contains provisions for protection of the elderly and for the registration of persons convicted of child abuse. Introduced June 6, 1991, placed on calendar. Passed Senate, amended, July 11,

1991. Contents substituted for those of H.R. 3371, which passed Senate Nov. 21, 1991.

S. 2305 (Thurmond)

Crime Control Act of 1992. Omnibus, 15-title bill containing principally provisions in the House- or Senate-passed version of H.R. 3371, the conference agreement on which was approved by the House, but not the Senate. Major titles include the Federal death penalty, *habeas corpus*, the Federal exclusionary rule, firearms, juveniles and gangs, terrorism, sexual violence, child abuse, victims' rights, equal justice act, funding, grant programs and studies, illegal drugs, and public corruption. New provisions include those to authorize the death penalty for aggravated murders in the District of Columbia and additional funding for prison construction. Introduced Mar. 3, 1992; referred to Committee on Judiciary.

Suzanne Cavanagh

MLC-071

DRUG CONTROL

...omnibus crime and drug control bills not enacted...

How to prevent the nonmedical use of dependency-producing drugs has been a public policy concern for over a century. A large part of the responsibility for controlling such substances has been assumed by the Federal Government. Historically based on a policy of restricting availability through a system of close regulation, including selective prohibition, the current Federal anti- drug strategy relies on activities and programs in five general areas: (1) regulation, interdiction, and other "enforcement" efforts; (2) overseas drug control assistance and working through international mechanisms; (3) education and other prevention efforts; (4) treatment and rehabilitation of drug- dependent persons; and (5) research on drugs, drug dependency, and treatment and prevention methods.

Estimates of the retail dollar value of the three principal illicit drugs consumed annually in the United States (cocaine, marihuana, and heroin) now range from $50 billion to $150 billion. Although surveys show that drug abuse by school-enrolled teenagers and the general population has been declining within the past decade, other indicators point to a sharp increase in chronic use -- especially of cocaine and "crack" -- among some groups.

Budget totals provide a measure of the growing Federal commitment to combat the problem: spending for all such efforts has risen from $82 million in FY1969 to approximately $10.5 billion in FY1991. Appropriations for FY1992 are estimated to total approximately $12 billion, and the Administration has requested $12.7 billion for FY1993. At least 36 agencies are charged with responsibility for some facet of drug abuse prevention or control.

During the second session of the 101st Congress, an omnibus crime and drug control bill (P.L. 101-647) was enacted, the fourth such measure since 1984. Nevertheless, new omnibus bills were developed in the first session of the 102d Congress (S. 1241, H.R. 3371, and H.R. 1400/S. 635), and a conference agreement on H.R. 3371 was approved by the House. Because the Senate failed to take up the agreement, final action was not taken during the Congress.

The fourth National Drug Control Strategy to be drawn up by the Office of National Drug Control Policy was released in February 1992. Like its predecessors, the fourth Strategy was characterized by a continuing commitment to the principle of attacking both the supply of, and demand for, drugs but also by increased support for demand reduction, through treatment and prevention efforts and through "user accountability" measures.

(For further information, see CRS Issue Briefs 87013, *Drug Control: Background and Policy Issues*; 88093, *Drug Control: International Policy and Options*; 87139, *Drug Testing in the Workplace: An Overview of Employee and Employer Interests*; and 87174, *Drug Testing in the Workplace: Federal Programs*. See also entry on "Foreign Aid: Budget, Policy, and Reform" in this issue of the *MLC*.)

LEGISLATION

P.L. 102-140, H.R. 2608

Justice Department Appropriations Act, FY1992. Contains a provision to make permanent the current 75%/25% Federal-State formula used for distribution of funds under the Byrne block grant program. Conference report (H.Rept. 102- 233) passed House and Senate Oct. 3. Signed into law Oct. 28, 1991.

P.L. 102-190, H.R. 2100

National Defense Authorization Act, FY1992 and 1993. In addition to other drug control funding authorizations, provides for additional Department of Defense support ($40 million total) for counter-drug activities of Federal, State, local, and foreign law enforcement agencies. Makes clear that the DOD lead role in detection and monitoring of aerial and maritime importation of illegal drugs into the U.S. is to be carried out in support of such agencies. Conference report (H.Rept. 102-311) passed House Nov. 18, 1991. Passed Senate November 22. Signed into law Dec. 5, 1991.

P.L. 102-484, H.R. 5006

National Defense Authorization Act for FY1993. Under *Title V, Subtitle E -- Counter Drug Activities*, extends authorization for DOD support to other agencies for counter-drug activities; requires the Secretary of Defense to establish requirements for detection and surveillance systems to be used by the Department; requires the identification and evaluation of existing and proposed counter-drug surveillance and detection systems and, based on such evaluation, preparation of a plan for development, acquisition, and use of improved

systems by the Armed Forces, with a report to be submitted within 6 months of enactment. Reported by House Armed Services Committee, amended (H.Rept. 102-527), May 19, 1992. Passed House, amended, June 5, 1992. (S. 3114 reported by Armed Services Committee (S.Rept. 102-352) July 31.) Passed Senate, with language of S. 3114, Sept. 19, 1992. Conference report (H.Rept. 102-966) agreed to in House October 3. Agreed to in Senate October 5. Signed into law Oct. 23, 1992.

P.L. 102-550, H.R. 5334

Housing and Community Development Act of 1992. Under Title XV (Annunzio- Wylie Anti-Money Laundering Act), requires the Federal depository institution regulatory agencies to take additional enforcement actions against depository institutions engaging in money laundering, and for other purposes. Introduced June 5, 1992; referred to Committee on Banking, Finance, and Urban Affairs. Reported to House, amended (H.Rept. 102-760), July 30. Passed House, amended, August 5. Passed Senate, with language of S. 3031, September 10. Conference report agreed to in House October 5. Agreed to in Senate October 8. Signed into law Oct. 28, 1992. (Related bills: H.R. 26, H.R. 6048.)

P.L. 102-583, H.R. 6187

International Narcotics Control Act of 1992. Consolidates and revises authorities and requirements pertaining to international narcotics control assistance (including the process certifying antidrug efforts of foreign aid recipients and of reporting to Congress on such efforts), with revisions generally designed to provide greater flexibility for the executive branch; exempts narcotics-related military assistance for FY1993 and FY1994 from prohibition on assistance for law enforcement agencies; requires increased reporting on money laundering and precursor chemicals countries; and provides for Export-Import Bank financing of sales of defense articles or services for anti-narcotics purposes. Authorizes $147.8 million for FY1993. Essentially similar to H.R. 6018, which was based on Title III of H.R. 2508. Introduced Oct 6, 1992; referred to Committee on Foreign Affairs, discharged by Committee, and called up in House by unanimous consent. Passed House by voice vote October 6. Passed Senate October 7. Signed into law Nov. 2, 1992.

H.R. 3371 (Brooks, Schumer)

Violent Crime Control and Law Enforcement Act of 1991. As originally passed by House and as reported by the committee of conference (25 and 31 titles, respectively), contains various drug control provisions. (1) establishes a new grant program of emergency assistance to State and local areas suffering a high level of drug-related problems; (2) provides for the possibility of the death penalty for trafficking in very large amounts of drugs (even where no death has resulted); (3) authorizes grants and other measures for rural drug enforcement; (4) provides new penalties for failure, by the operator of any aircraft that has crossed the U.S. border, to respond to an official order to land; (5) provides penalty enhancement for drug trafficking in a Federal prison; (6) doubles penalties for drug distribution near or around truck stops or safety rest areas; (7) establishes a National Commission to Examine the Root Causes of Drug Abuse in the United States; (8) extends the special anti-drug trafficking penalties covering schools and playgrounds to include public housing; (9) authorizes grants to States for drug testing of arrestees and conditions receipt of other Federal funds by States on implementation of drug testing of prisoners. Also, many provisions of a general nature have drug control implications. As reported from conference, includes S. 1241 provisions extending Controlled Substances Act controls designed to reduce diversion from legal commerce of "precursor and essential chemicals" used in illicit production of controlled substances and to provide greater flexibility in the application of regulatory controls on the international commerce in such chemicals. (For further detail, see CRS Report 91-737 GOV, *Crime, Drug, and Gun Control: Comparison of Major Omnibus Bills of the 102d Congress*). Introduced Sept. 23, 1991; referred to Committees on Judiciary and Ways and Means. Reported by Judiciary, amended (H.Rept. 102-242, Part I), Oct. 7, 1991. Reported by Ways and Means, amended (H.Rept. 102-242, Part II), October 9. Passed House, amended, October 22. Passed Senate, with contents of S. 1241 substituted, Nov. 21. Conference report (H.Rept. 102-405) approved by House Nov. 27, 1991. Cloture motions on conference report failed in Senate on Nov. 27, 1991, Mar. 19, 1992, and Oct. 2, 1992.

S. 1241 (Biden)

Violent Crime Control Act of 1991. Omnibus, 49-title bill. Contains numerous provisions related to drug control. (For detailed summary, see CRS Report 91-581 GOV.) Introduced (as replacement for S. 618) June 6, 1991; placed on the calendar. Passed Senate, amended, July 11. Contents substituted for those of H.R. 3371, which then passed Senate Nov. 21, 1991.

Harry J. Hogan

MLC-072

GUN CONTROL

House and Senate fail to reach agreement

Efforts to amend the Gun Control Act of 1968 have been continuous since its enactment, either to strengthen or ameliorate its prohibitions and requirements. In the 102d Congress, major proposed amendments called for (1) handgun buyer background checks and (2) further restrictions on military-style semiautomatic firearms.

H.R. 7 and S. 257 were the latest in a series of "Brady Bills" that would have established a procedure allowing police background checks, during a 7-day waiting period, of prospective handgun purchasers who buy through commercial channels. The purpose of such proposals is to screen out felons and other high-risk individuals as well as to provide a "cooling-off" period designed to deter the commission of crimes of passion. An alternative approach supported by the Na-

tional Rifle Association (in the House, the Staggers bill, H.R. 1412) proposed establishment of a point-of-purchase identification system designed to minimize inconvenience to the buying public.

During the first session, the Brady Bill was passed by the House both independently (H.R. 7) and as part of H.R. 3371, an omnibus crime control bill. The Senate counterpart to H.R. 3371 (S. 1241) combined the Brady Bill requirements with provisions for a new grant program designed to improve the Nation's criminal records and eventually establish a system similar to that proposed by the Staggers bill. A conference agreement on H.R. 3371, which included the Senate provisions, was approved by the House during the first session but not by the Senate; two Senate attempts to pass the agreement during the second session also failed.

The question of whether to impose additional restrictions on the commerce in certain military-style and other semiautomatic firearms ("assault weapons") also continued to be of interest, as reflected in provisions of the Senate- passed crime bill and in the reported version of the House bill. The latter provisions were deleted by a floor amendment, and the conference agreement on H.R. 3371 did not include such provisions.

(For further information, see CRS Issue Brief 89093, *Gun Control*.)

LEGISLATION

H.R. 7 (Feighan)/S. 257 (Metzenbaum)

Brady Handgun Violence Prevention Act. Amends 18 U.S.C. 44 to prohibit a licensed firearm dealer from transferring a handgun -- except in specified circumstances -- without notifying appropriate local law enforcement authorities and providing them the opportunity of checking the transferee's background to determine whether that person may legally own firearms. Transfer would be delayed 7 to 8 days from time of proposal to transfer. Exemptions include transfers where purchaser has been cleared by a felon identification system established pursuant to Section 6213(a) of the Anti-Drug Abuse Act of 1988. H.R. 7 introduced Jan. 3, 1991; referred to Committee on Judiciary. Reported, amended (H.Rept. 102-47), May 2. Passed House, amended, May 8. In Senate, placed on legislative calendar June 3. Included in House-passed omnibus crime control bill, H.R. 3371. (Related bills: H.R. 1412, H.R. 4035, S. 1241, S. 1260.)

H.R. 1400 (Michel, by request)/S. 635 (Thurmond and Dole, by request)

Comprehensive Violent Crime Control Act of 1991. Omnibus bill containing various provisions related to firearms, including those to (1) double the mandatory penalty enhancements for use of a gun in committing a Federal crime of violence or a drug felony if the gun is a certain type of semiautomatic; (2) allow summary forfeiture of unregistered firearms and devices covered by the National Firearms Act; (3) broaden the prohibitions in 18 U.S.C. 924(c) and 844(h) to reach persons who have a firearm available during the commission of certain crimes, even if not carried or used; (4) create eligibility for pretrial detention in certain cases involving firearms or explosives; (5) create new offenses, subject to severe penalties, for smuggling a firearm into the United States to promote drug trafficking or violence and for stealing a firearm or explosive materials; and (6) raise the maximum penalty for making a knowingly false, material statement to a licensee in connection with the acquisition of a firearm. Also restricts commerce in large-capacity ammunition feeding devices (holding more than 15 rounds). H.R. 1400 introduced Mar. 12, 1991; referred to Committee on Judiciary. S. 635 introduced Mar. 13, 1991; referred to Committee on Judiciary. Discharged from further consideration by Committee and placed on calendar June 6, 1991.

H.R. 1412 (Staggers)

Felon Handgun Purchase Prevention Act of 1991. Amends Title 18, U.S. Code, to provide for the establishment of a national hotline that a Federal firearms licensee would be required to contact, before selling or otherwise transferring a handgun to a non-licensee, to learn if receipt of a handgun by the prospective transferee is prohibited. Introduced Mar. 13, 1991; referred to Committee on Judiciary. Failed passage in House as substitute for H.R. 7 on May 8, 1991.

H.R. 3371 (Brooks, Schumer)

Violent Crime Control and Law Enforcement Act of 1991. As passed by the House, contains 25 titles, of which those pertaining to firearms (1) incorporate the language of H.R. 7 (Brady Bill), previously passed by House; (2) make "drive-by" shooting a Federal offense; and (3) amend existing law in a variety of ways, including the increase of penalty enhancements for possessing a gun or explosive during commission of certain Federal crimes. As reported and passed, provisions to "freeze" commerce in certain military-style semiautomatic firearms and large-capacity ammunition feeding devices were dropped, as well as provisions pertaining to reporting of multiple handgun sales and further requirements on applicants for firearms dealer licenses. The conference agreement, which also did not include such provisions, contains the Senate version (S. 1241) of requirements for background checks of handgun buyers. (For further detail, see CRS Report 91-737 GOV, *Crime, Drug, and Gun Control: Comparison of Major Omnibus Bills Pending in the 102d Congress*.) Introduced Sept. 23, 1991; referred to Committee on Judiciary. Reported, amended (H.Rept. 102-242), October 7. Passed House, amended, Oct. 22, 1991. Passed Senate with contents of S. 1241 substituted, November 21. Conference agreement (H.Rept. 102-405) approved by House Nov. 27. Cloture on the conference report failed in Senate Nov. 27, 1991, Mar. 19, 1992, and Oct. 2, 1992.

S. 1241 (Biden)

Violent Crime Control Act of 1991. Omnibus bill containing the following provisions relating to firearms and firearm crime: *Title VI--Drive-by Shooting*. Makes drug-related drive-by shooting a Federal offense, punishable by up to 25 years in prison and by the death penalty if death results. *Title VII--Assault Weapons*. Bans importation of semiautomatic

firearms covered by the bill's definition of "assault weapon" (certain specified models); bans the possession and transfer of any such firearm if it is not legally owned on the effective date of the Act, making legal possession or transfer contingent upon the execution or procurement of Bureau of Alcohol, Tobacco, and Firearms form 4473; contains sunset clause to lift the ban after 3 years; imposes additional sanctions for the criminal misuse of an "assault weapon." *Title XI-- Punishment of Gun Criminals:* Increases penalty enhancements for use of a gun in committing a Federal drug trafficking crime or crime of violence and makes certain other changes in existing firearm control laws, including those to (1) establish eligibility for pretrial detention in certain cases involving firearms or explosives; (2) make it a Federal offense to steal a firearm or explosive materials; and (3) raise the maximum penalty for making a knowingly false, material statement to a licensee in connection with the acquisition of a firearm. *Title XII--Youth Violence:* Expands the reach of the Armed Career Criminals Act to cover certain serious juvenile offenders involved in gun offenses. *Title XXVII--Brady Handgun Violence Prevention Act:* Contains provisions of H.R. 7 (see above), but also establishes a program of grants to the States for the improvement and automation of their central criminal record systems. Law enforcement officials in a State receiving funds would be required (rather than simply given the opportunity) to conduct a background check of persons trying to buy a handgun through commercial channels, have to agree to share their criminal record data with the FBI by the end of 1993, and by the end of 1995 have achieved in their criminal history records an 80% level of currency of case dispositions for the last 5 years of criminal activity. Introduced June 6, 1991; placed on calendar. Passed Senate, amended, July 11. Contents substituted for those of H.R. 3371, which then passed Senate Nov. 21, 1991.

S. 2305 (Thurmond)

Crime Control Act of 1992. *Title IV - Firearms and Related Amendments.* Among other things, increases penalty enhancements for use of a firearm in committing a Federal crime of violence or drug trafficking offense, increases penalties for certain other offenses involving firearms or explosives, creates certain new Federal offenses (such as stealing a firearm or explosive material from a firearms or explosives licensee), and provides mandatory penalties for possession of firearms by persons convicted of a violent felony or drug trafficking offense. (Combination of Senate and House versions of H.R. 3371). Introduced Mar. 3, 1992; referred to Committee on Judiciary.

Harry Hogan

NATIONAL DEFENSE AND SECURITY

MLC-073

ACTIVE-RESERVE MIX IN THE ARMED FORCES

...contention between the Administration and the Congress...

A major issue of contention between the Administration and the Congress regarding post-Cold War military manpower policy is the proper mix of active and reserve forces in the total military force structure. In general, since the end of the Vietnam War in the early 1970s the Congress has pressured the Administration to increase roles and responsibilities for the reserves, citing (1) the lesser cost of reserve units, and (2) the likelihood of increased difficulty in sustaining active force strengths as unemployment and the youth population both decline. The Administration has been more cautious in expanding reliance on reserves, citing the political and practical problems involved in (1) having the reserves attain a satisfactory state of readiness; and (2) in mobilizing them, and the need for sufficient active forces to sustain peacetime overseas deployments and short-term contingencies.

Although there was broad agreement between the Congress and the executive branch regarding the desirability of the reserve strength increases between FY1979 and FY1989, that consensus is evaporating regarding the extent to which the reserves should be cut during the 1990s. The Congress is moving toward reducing active force strength to a much greater degree than that of the reserves, based on the assumption that the reserves represent a cost-effective "hedge" against a resurgent threat to U.S. security. The Congress also appears to be concerned about the state role of the Army National Guard in maintaining domestic order and dealing with natural disasters, an issue made very salient by the deployment of Guard personnel for the Los Angeles riots and the hurricanes in Florida, Louisiana, and Hawaii. Finally, the political significance of reducing reserve strength in communities around the country, with the concomitant loss of a secondary income for affected reservists during a prolonged recession, has not been lost on the Congress.

This sets the stage for a considerable conflict between the two branches of government. DOD, particularly the Army, has argued that force reductions in the active and reserve components must be broadly symmetrical, because (1) many reserve units exist to support active units if mobilized, so if the active units are eliminated, there is no need for the reserve units, and (2) the shift in emphasis from Soviet to non-Soviet

operations will place more requirements for rapid deployment capabilities and high readiness found in the active forces, rather than the mobilization and reinforcement capabilities found in the Reserve Components. DOD also argues that sufficient National Guard force structure will remain to perform the Guard's state missions.

The Administration's FY1993 budget proposed, by FY1995, to cut active forces 24% below their post-Vietnam high of 2,174,000, reached in FY1987. The FY1993 budget proposed an FY1995 Selected Reserve strength of 922,000, down 20% from FY1987 levels -- a reduction roughly comparable with that imposed on the active duty forces. However, many in the Congress have been arguing for lesser cuts, virtually no cuts, or even increases in reserve strength, as active force strength declines. There are political pressures on the Congress not to accede to reserve cuts, as well as congressional concerns that the regular uniformed leadership of the Armed Forces may seize upon the military drawdown as an excuse to make excessive cuts in reserve structure due to institutional bias against the reserves. There are substantial practical arguments in favor of DOD's position, and budgetary pressures, which may combine to bring about most of the reserve cuts DOD wants by the mid or late 1990s. One recent factor that may well act to preserve at least Army National Guard strength, however -- the domestic role of the Guard -- may tilt the balance in a way not apparent before the Los Angeles riots and the hurricanes.

These differences of opinion between the two branches of Government can be seen in congressional action on the FY1993 Selected Reserve authorizations requests of the Administration. The FY1993 National Defense Authorization Act restored 73,000 of the 113,000 spaces the Administration proposed to cut from the reserves. Fully 40,000 of 48,000 spaces the Administration proposed to cut from the Army National Guard were restored, as were 3,400 out of 3,500 Marine Corps Reserve spaces the Administration proposed to eliminate. At the same time, the Congress did concur in about 50% of the substantial Army Reserve cuts proposed by the Administration (22,000 out of 44,000), and agreed to over half (9,000 out of 17,000) of the Naval Reserve cuts proposed.

LEGISLATION

P.L. 102-484, H.R. 5006

FY1993 National Defense Authorization Act. Reported with amendments by House Armed Services Committee, May 19,1992 (H.Rept. 102-527). Passed House, amended, June 5, 1992, 198-168 (Roll Call no. 172). S. 3114 (Nunn) reported with amendments by Senate Armed Services Committee, July 31, 1992 (S. Rept. 102- 352). Conference report filed Oct. 1, 1992 (H.Rept. 102- 966). Signed into law Oct. 23, 1992.

Robert L. Goldich

MLC-074

CHEMICAL AND BIOLOGICAL WEAPONS PROLIFERATION

...stiffer sanctions and greater control...

In the aftermath of the Persian Gulf war, Congress's concern over the proliferation of chemical and biological weapons (CBW) intensified. In addition to a few advanced nations known to possess them, U.S. intelligence believes the following countries *probably* possess some chemical weapons (CW) capability: Burma (Myanmar), China, Egypt, India, Iran, Iraq, Israel, Libya, North Korea, Pakistan, South Korea, Syria, Taiwan, and Vietnam; and that Indonesia, Saudi Arabia, South Africa, and Thailand *may* possess such weapons. With regard to biological weapons (BW), U.S. intelligence has reported that Syria has an offensive capability, and that five unidentified countries have BW programs in varying stages of development. Iraq was also believed to have biological weapons, but it is not clear how much of this capability survived the Persian Gulf war.

After 24 years of negotiation, the Conference on Disarmament has completed the Chemical Weapons Convention (CWC). The Convention was submitted to the United Nations General Assembly in October 1992, and opened for official signature in January 1993. It is expected the CWC will be submitted for U.S. Senate approval at the beginning of the 103rd Congress. The Convention prohibits the use, production, and stockpiling of chemical weapons by signatory nations. Unlike the 1972 Biological Weapons Convention, the CWC provides for extensive verification procedures and international monitoring of the destruction of existing stockpiles. The CWC will come into effect in early 1995, allowing 2 years for a Preparatory Commission to organize and staff the convention's governing agency. Presaging the CWC, in 1991 the Bush Administration forswore all use of chemical weapons -- even in retaliation -- and pledged to destroy all U.S. chemical weapons.

For most of 1992, the CBW non-proliferation landscape has been dominated by the United Nations inspection activities in Iraq. Inspectors have located over 40,000 Iraqi chemical munitions and are overseeing their destruction. The munitions included a variety of bombs, artillery and mortar shells, rockets, and missile warheads containing "mustard gas," nerve agents, and cyanide compounds. (The CW warheads were not affixed to missiles, and are believed to still have been in development.) No biological weapons were found and former BW research facilities were found stripped of their equipment and records.

In the face of Iraqi intransigence and deceit, U.N. inspectors are skeptical they have located all the Iraqi CW arsenal. They are particularly concerned about CBW production equipment removed and possibly hidden before inspections began. In this regard, CIA director Gates has estimated that Iraq could resume CW production within 8 months of U.N. sanctions ending.

Against this background, Congress and the Bush Administration have focused on statutory and regulatory efforts to ensure that U.S. corporations do not assist CBW proliferation, and to institute sanctions against foreign corporations or nations that do. Public Law 102-182, the Chemical and Biological Weapons Control Act of 1991, augmented the provisions of the Arms Control Export Act and the Export Administration Act. The 103rd Congress is expected to continue efforts, directed particularly to the Middle East, to seek generally stiffer sanctions and greater control over the technology and equipment that could aid CBW proliferation. (For further information, see Weapons Non-Proliferation Policy and Legislation: 102nd Congress, CRS Report 92-429F.)

LEGISLATION

P.L. 102-138, H.R. 1415
Chemical and Biological Weapons Control and Warfare Elimination Act. Signed into law Oct. 28, 1991.

Steven R. Bowman

MLC-075

DEFENSE BUDGET FOR FY1992 AND FY1993: AUTHORIZATION AND APPROPRIATIONS

debate on long-term policy deferred

The FY1992 and FY1993 defense authorization and appropriations bills reflect the first steps by Congress and the Administration to reshape U.S. defense policy in the post-Cold War world. While longstanding disputes over several major strategic nuclear weapons programs were resolved, a number of fundamental defense policy matters remain at issue.

Perhaps surprisingly, debate over the level of defense spending was relatively mild. Targets for defense spending in FY1992 and FY1993 were established in the October 1990 budget compromise. In accordance with the budget agreement, in February 1991, the Administration requested $290.8 billion in budget authority for national defense for FY1992. Ultimately Congress appropriated $290.3 billion. (Subsequently, following an Administration request, Congress rescinded $7.2 billion in FY1992 defense funds.) Agreement on spending in FY1992, however, did not reflect an accord on spending in future years, and Congress neither approved nor disapproved Administration plans that called for a 20% decline, adjusted for inflation, in defense spending between FY1990 and FY1995.

In January 1992, following the collapse of the Soviet Union, the Administration requested $281.0 billion for national defense in FY1993, about $7 billion below the level allowed by the 1990 budget agreement. In final action on the annual defense funding bills, Congress approved about $274 billion. Again, however, there was no final agreement on longer-term spending plans. The Administration proposed trimming about $50 billion from its previous 6-year, FY1992-97 plan. House Armed Services Committee Chairman Les Aspin endorsed a cut of $90-95 billion over that period, Senate Armed Services Committee Chairman Sam Nunn, in a proposal supported by many Senate Republicans, called for a cut of about $85 billion, and other congressional leaders advocated somewhat deeper long-term reductions, but no final accord was negotiated.

Although the budget debate was muted, and agreements were reached on several major defense programs, a number of defense policy issues remain intensely controversial. Perhaps the most notable agreements involve strategic nuclear weapons programs that have been sources of contention for many years. Since August of 1990, Congress and the Administration have agreed to halt procurement of Trident submarines after the 18th boat, to terminate procurement of the MX, SRAM-II, SRAM-T, and ACM missile programs, and, with the FY1993 budget, to halt "Midgetman" missile development. The Administration also proposed to reduce total B-2 bomber procurement to 20 aircraft, and Congress agreed, after intense debate, to finance the final 4 bombers in FY1993. Moreover, Congress has generally approved of a U.S.-Russian agreement to reduce strategic warheads to 3,000-3,500 by the year 2000. The Strategic Defense Initiative remain intensely controversial, however.

The 102d Congress also generally went along with Administration plans to reduce the size of active duty forces from over two million in FY1990 to about 1.6 million by FY1995, though some call for continued reductions in following years. The Administration and Congress have been at odds, however, over reserve forces, with Congress generally refusing to agree to reduce the size of reserve forces in proportion to cuts in active duty troops.

Major controversies continued over conventional weapons modernization programs. Although Con-

gress acceded to Administration plans to terminate a number of ongoing weapons programs, it refused to cancel others, such as the V- 22 Osprey tilt rotor aircraft, and it added money over Administration objections for upgrades of programs like the M-1 tank, Bradley Fighting Vehicle, and the F-14 aircraft. In debate over the FY1993 budget, a number of major disputes have emerged over aircraft modernization programs, with the Administration, House, and Senate taking divergent approaches on the Navy F- 18E/F and AX aircraft, the Air Force F-22 and F-16 programs, and the Army Comanche helicopter program. In the end, Congress provided continued funding to develop all of these programs, but with a warning that funding for all of them may not be available in the future.

Congress also appeared increasingly at odds with the Administration over troop deployments abroad and burdensharing with the allies. In the FY1993 authorization, for example, Congress imposed a ceiling of 100,000 troops in Europe by FY1996 compared to Administration plans to deploy 150,000 troops there (down from over 300,000 in FY1990). The issue of overseas deployments may become even more contentious next year as Congress reacts to an expected new Administration plan to close a substantial number of military bases inside the United States.

LEGISLATION

P.L. 102-136, H.R. 2426
Military Construction Appropriations bill for FY1992. Passed House May 30, 1991 (H.Rept. 102-74); passed Senate Sept. 16, 1991 (S.Rept. 102- 147). Conference report submitted Oct. 3, 1991 (H.Rept. 102-236); passed House Oct. 8, 1991; passed Senate Oct. 16, 1991. Signed into law Oct. 25, 1991.

P.L. 102-172, H.R. 2521
Department of Defense Appropriations bill for FY1992. Passed House June 7, 1991 (H.Rept. 102-95); passed Senate Sept. 26, 1991 (S.Rept. 102- 154). Conference report filed Nov. 18, 1991 (H.Rept. 102-328); passed House Nov. 20, 1991; passed Senate Nov. 23, 1991. Signed into law Nov. 26, 1991.

P.L. 102-190, H.R. 2100
Department of Defense Authorization bill for FY1992 and 1993. Passed House May 22, 1991 (H.Rept. 102-60); passed Senate Aug. 2, 1991 (S.Rept. 102- 113); Conference report submitted Nov. 13, 1991 (H.Rept. 102- 311); passed House Nov. 18, 1991; passed Senate Nov. 22, 1991. Signed into law Dec. 5, 1991.

P.L. 102-380, H.R. 5428
Makes appropriations for military construction for the Department of Defense for the fiscal year ending Sep. 30, 1993, and for other purposes. Introduced and referred to the House Committee on Appropriations, Jan. 29, 1992. Subcommittee markup completed, Jun. 11, 1992; full committee mark-up held and ordered to be reported, Jun. 18, 1992 (H.Rept. 102-580). Considered in the House and passed, as amended (390-33), Jun. 23, 1992. Received in the Senate and referred to Senate Committee on Appropriations, Jun. 25, 1992. Reported to the Senate, Jul. 31, 1992. Considered in Senate and passed as amended by voice vote; Senate insisted on its amendments and requested a conference, Aug. 5, 1992. Conference agreement reported, (H.Rept. 102-888), Sept. 22, 1992; House agreed to the conference report (voice vote), Sept. 24, 1992; Senate agreed to conference report (voice vote), Sept. 25, 1992. Signed into law Oct. 5, 1992.

P.L. 102-396, H.R. 5504
Makes appropriations for the Department of Defense for the fiscal year ending Sept. 30, 1993, and for other purposes. Introduced and referred to the House Committee on Appropriations, Jan. 29, 1992. Subcommittee markup completed, Jun. 18, 1992; full committee markup held and ordered to be reported, Jun. 29, 1992 (H.Rept. 102-627). Considered in the House and passed, as amended (328-94), July 2, 1992. Referred to Senate Committee on Appropriations, Jul. 21, 1992. Full committee markup held, Sep. 16, 1992, ordered to be reported as amended, Sep. 17, 1992 (S.Rept. 102-408). Considered in Senate and passed as amended (86-10). Senate insisted on its amendments and requested a conference, Sep. 23, 1992. Conference report issued (H.Rept. 102- 1015), passed in House and Senate (voice votes), Oct. 5, 1992. Signed into law Oct. 6, 1992.

P.L. 102-484, H.R. 5006
Authorizes appropriations for military functions of the Department of Defense and for other purposes and prescribes military personnel levels for FY1993. Introduced and referred to House Committee on Armed Services, Apr. 29, 1992. Committee consideration and markup session held and ordered to be reported, May 13, 1992. Reported, May 19, 1992 (H.Rept. 102-527). Debated in the House, Jun. 3-5, 1992, motion to recommit with instructions passed in the House by voice vote, Jun. 5, 1992; passed in the House as amended, (198-168), Jun. 5, 1992. Referred to Senate Committee on Armed Services, Jun. 12, 1992. Senate struck all after enacting clause and substituted language of S. 3114 as amended; passed in Senate in lieu of S. 3114 (voice vote). Senate insisted on its amendments and requested a conference, Sep. 19, 1992. Conference report issued (H.Rept. 102-966), Oct. 1, 1992. Passed in House (304-100), Oct. 3, 1992; passed in Senate (voice vote), cleared for White House, Oct. 5, 1992. Signed into law Oct. 23, 1992.

S. 3114 (Nunn)
Authorizes appropriations for military functions of the Department of Defense and for other purposes and prescribes military personnel levels for FY1993. Introduced and referred to Senate Committee on Armed Services, Apr. 29, 1992. Reported, July 23, 1992 (S.Rept. 102-352). Reported Jul. 31, 1992 (S.Rept. 102-352). Passed in Senate as amended (voice vote), Sept. 19, 1992.

Stephen Daggett

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MLC-076

THE FY1992 BUDGET DEBATE: HOW MUCH FOR DEFENSE?

...a 26% decline by FY1997...

Congressional action on defense spending in FY1992 and FY1993 was shaped both by continued dramatic changes in international affairs and by the long- term budget compromise that Congress and the Administration concluded in October 1990. The budget compromise established separate targets for defense, international, and domestic discretionary spending in FY1991, FY1992, and FY1993 and set targets for overall discretionary spending in FY1994 and FY1995. Following the disintegration of the Soviet Union in 1991, efforts were made in both Houses of Congress to reconsider the provisions of the budget accord and break down the walls between defense and domestic spending, but all of these efforts failed. Thus, although Congress made somewhat deeper cuts in defense spending in FY1992 and FY1993 than were anticipated in 1990, the savings went to reduce the Federal budget deficit.

In presenting its FY1992 budget to Congress on Feb. 4, 1991, the Administration proposed a long-term defense program, consistent with the terms of the budget accord, that would reduce national defense spending by about 20% in constant, inflation-adjusted dollars, between FY1990 and FY1995. The plan requested total national defense budget authority of $290.8 billion in FY1992. Early in 1991, the level of defense spending was not a major matter of contention in congressional consideration of the Federal budget. On May 22, Congress adopted a conference agreement on the FY1992 budget resolution that included the Administration's requested targets for defense spending in FY1992 and FY1993, but set levels very slightly below the Administration figures in FY1994, FY1995, and FY1996.

A discussion of long-term trends in the defense budget began in earnest in the summer, when estimates of the deficit grew and CBO warned that Congress may have to cut non-defense discretionary spending substantially in FY1994 and FY1995 to reach budget targets unless additional cuts in defense spending are imposed. More extensive debate emerged following the failed Soviet coup attempt in August. While the Senate rejected efforts to break the budget agreement in FY1992 appropriations bills, several Members of Congress proposed tax cuts paid for, in part, by reductions in defense spending, and a growing number of congressional leaders called for renegotiating the 1990 budget compromise.

On Jan. 29, 1992, in presenting its FY1993 budget to Congress, the Administration requested $281.0 billion in new budget authority for national defense, $7.4 billion below the level permitted by the 1990 budget accord. This proposal reflected an Administration initiative to trim planned defense spending by $50 billion over the 6-year FY1992-97 period. In all, defense spending would decline by about 26% between FY1990 and FY1997 under the Administration's revised plan.

The budget debate in Congress focused, in part, on proposals to break down the walls between defense and domestic discretionary spending. On March 26, however, the Senate failed to approve a measure proposed by Senator Sasser that would allow defense savings to be used to increase domestic spending. On March 31, the House rejected a similar proposal by Representative Conyers.

Another major element of the congressional debate concerned the impact of defense budget cuts on employment. In the Senate, the issue was explicitly addressed in debate over an amendment by Senator Exon to reduce the FY1993 defense spending target in the budget resolution to approximately the level approved in the House ($274.4 billion), about $7 billion below the Administration request. The Senate rejected the Exon proposal, however, and approved $280.4 billion for national defense. In the end, the House/Senate conference committee compromised at $277.4 billion as the national defense target in the budget resolution, and final defense authorization and appropriations bills provided about $274 billion for national defense in FY1993.

LEGISLATION

H.Con.Res. 121 (Panetta)/S.Con.Res. 29 (Sasser)

A concurrent resolution revising the congressional budget for FY1991 and setting forth the congressional budget for the United States Government for fiscal years 1992, 1993, 1994, 1995, and 1996. H.Con.Res. 121 reported by Committee on House Budget Apr. 12, 1991 (H.Rept. 102-32). Passed House Apr. 17, 1991 (261-163). S.Con.Res. 29 reported by Committee on Budget Apr. 17, 1991 (S.Rept. 102-40), passed Senate, with amendment, by voice vote Apr. 25, 1991. Senate struck all after the enacting clause, substituted the language of S.Con.Res. 29, and requested a conference Apr. 25, 1991. Conference report filed May 21, 1991 (H.Rept. 102-69). House agreed to conference report May 22, 1991 (239-181). Senate agreed to conference report May 22, 1991 (57-41).

H.Con.Res. 287 (Panetta)/S.Con.Res. 106 (Sasser)

A concurrent resolution setting forth the congressional budget for the United States Government for the fiscal years 1993, 1994, 1995, 1996, and 1997. Reported by the House Budget Committee (H.Rept. 102-450), Mar. 2, 1992. House agreed to sections 1, 2, and 4 (215-201), and to section 3 (224-191), Mar. 5, 1992. Senate struck all after the enacting

clause and substituted the language of S.Con.Res. 106 as amended (54-35), and passed Senate in lieu of S.Con.Res. 106 (voice vote), Apr. 10, 1992. Senate requested a conference, Apr. 10, 1992; House agreed to a conference, May 6, 1992; conference agreement reported (H.Rept. 102-529), May 20, 1992; House agreed to conference report (209-207), May 21, 1992; Senate agreed to conference report (52-41), May 21, 1992.

H.R. 3732 (Conyers)

Amends the Congressional Budget Act of 1974 to eliminate the division of discretionary appropriations into 3 categories for purposes of a discretionary spending limit for FY1993, and for other purposes. Reported with amendments by the House Committee on Government Operations (H.Rept. 102-446 (Part I)), Feb. 27, 1992; reported with amendments by the House Committee on Rules (H.Rept. 102- 446 (Part II)), Mar. 4, 1992; rejected by the House (187-238), Mar. 31, 1992.

S. 2399 (Sasser)

Allows choice between defense and domestic discretionary spending. Introduced in the Senate, Mar. 24, 1992; motion to proceed in the Senate, Mar. 25, 1992; cloture on the motion to proceed not invoked (50-48), Mar. 26, 1992; withdrawn by unanimous consent, Mar. 26, 1992.

Stephen Daggett

MLC-077

INTELLIGENCE ISSUES

disagreement within Congress

Adapting the intelligence community to the post-Cold War world tasked the 102d Congress with extensive oversight and legislative challenges. Reductions in the size of U.S. military forces involved requirements for fewer intelligence assets. On the other hand, the need to monitor internal developments in the successor states of the Soviet Union, arms control agreements, the narcotics trade, and international terrorism has led to calls for additional intelligence resources. The use of innovative, but expensive, intelligence collection and dissemination technology in the Persian Gulf war has led to the wider deployment of such equipment throughout the U.S. armed forces. The intelligence, armed services, and appropriations committees were directly involved in this resource allocation, a predominant intelligence issue in the 102d Congress. The FY1993 Intelligence Authorization bill (H.R. 5095) reduced by nearly 6% the funding levels originally requested by the Administration.

Intelligence reorganization and reform issues continued to attract congressional attention. New statutory provisions regarding covert actions were enacted in 1991 as part of the FY1991 Intelligence Authorization Act (P.L. 102-88). The Intelligence Authorization Act for FY1992 (P.L. 102- 183) included provisions reducing the intelligence budget, establishing a scholarship program to encourage foreign area studies and languages, and urging the publication of the total amount spent on intelligence beginning in FY1993. Legislation introduced in early 1992 by the chairmen of the two Intelligence Committees called for major reorganization of the intelligence community to strengthen the role of the Director of Central Intelligence (DCI), consolidate analytical efforts, and establish a new National Imagery Agency. Extensive hearings, however, did not yield a firm consensus on all aspects of the proposed legislation. Some reorganization proposals were ultimately adopted as part of the FY1993 Authorization bill which passed both houses in early October 1992. These included the enactment in statute of relationships among components of the Intelligence Community previously established by Executive Order, some enhancement of the role of the DCI in establishing budgetary, collection and analysis priorities, and the specification of the responsibilities of the Secretary of Defense for signals intelligence and imagery functions.

Much of the burden for immediate reform of U.S. intelligence has fallen on Robert Gates, the DCI since November 1991. In confirming Gates, the Senate Intelligence Committee gave him a mandate to reform the community in light of sweeping global changes. Gates announced a number of significant changes in April 1992 that gave his office a greater role. A Community Management Staff has been created to replace the widely criticized Intelligence Community Staff; a National Intelligence Council, independent of CIA, has been created to prepare National Intelligence Estimates; organizations for collecting imagery intelligence have been strengthened and efforts are underway to improve intelligence support to military forces. He argued that except for minor changes additional legislation was unnecessary, but the Administration indicated later that the changes proposed in the FY1993 authorization bill were acceptable.

LEGISLATION

P.L. 102-88, H.R. 1455

Intelligence Authorization Act for FY1991. Does not include provisions for notification of covert actions to which President Bush objected in November 1990. Reported to House by Permanent Select Committee on Intelligence (H.Rept. 102-37), Apr. 22, 1991. Passed House May 1, 1991. Passed Senate July 19. Conference report (H.Rept. 102-166) passed House and Senate July 25. Signed into law Aug. 14, 1991.

P.L. 102-183, H.R. 2038

Intelligence Authorization Act for FY1992. Reported to House by Permanent Select Committee on Intelligence May 15, 1991 (H.Rept. 102-65, part 1). Reported to House by Committee on Armed Services June 4, 1991 (amended) (H.Rept. 102-65, part 2). Passed House June 11; passed Senate July 24. Conference report (H.Rept. 102-327) passed House and Senate Nov. 20, 1991. Signed into law Dec. 4, 1991.

P.L. 102-496, H.R. 5095

Intelligence Authorization bill for FY1993. Introduced May 7, 1992. Referred to Permanent Select Committee on Intelligence and Armed Services Committee. H.Rept. 102-544 (Parts 1 and 2). Passed House by voice vote, June 25, 1992. Amended version passed Senate, September 23, 1992. Conference held September 29, 1992. H.Rept. 102-963. Passed House and Senate, October 2, 1992. Signed into law Oct. 24, 1992.

Richard A. Best, Jr.

MLC-078

MILITARY BASE CLOSURES

problems to consider

For approximately a decade, no major military bases were closed, largely because the procedural requirements established by Congress in 1977 were so difficult to comply with that DOD's closure attempts were effectively frustrated. Finally, in 1988 Congress found a means of breaking the deadlock. It passed a law creating a bipartisan Commission on Base Realignment and Closure whose function was to make recommendations to the Congress and the Secretary of Defense on closures and realignments. The commission submitted its report, listing 145 bases for closure or realignment, in December 1988 and, having performed its statutory function, disbanded. Although a joint resolution was introduced in Congress to prevent the commission's recommendations from being carried out, the resolution was defeated, thereby giving DOD the authority to begin implementing the closing and realignment of designated installations.

Subsequently, there was widespread agreement that additional closures should take place, both because of improving relations between the United States and the Soviet Union and also because of the problem of the national deficit. In 1990, Congress passed new base closure legislation that, as enacted, provided more complex procedures than before. Once again, however, the essence of the statute was the use of a bipartisan commission. This commission issued its first set of recommendations in 1991 (82 bases to be closed or realigned), and will issue additional recommendations in 1993 and 1995.

While it is expected that the recommendations of the two commissions will be carried out, there are a number of problems associated with base closures. One of these relates to the type and amount of relief to be made available to individuals and communities affected by closure. An additional problem concerns the future disposition and use of closed bases. Finally -- and this is perhaps the most complex of all -- there is the problem of insuring the environmental restoration of closed bases before they are transferred out of Federal ownership. Legislation on all these subjects was introduced in the 102d Congress.

LEGISLATION

P.L. 102-484, H.R. 5006

National Defense Authorization Act for Fiscal Year 1993. Authorizes appropriations for military functions of the Department of Defense and for other purposes. In report language, under Division B - Military Construction Authorization, the House Armed Services Committee reaffirms its strong commitment to cleaning up closing bases as soon as possible and instructs DOD to expedite the release of such funds as are needed. The committee also instructs the department to keep bases scheduled for closing in good repair, and to identify specific bases which might be utilized by the educational community "to promote cross-cultural and global understanding." In addition, the committee recommends authorization of $133 million (an increase of $49 million) for the Homeowners Assistance Program established to minimize real estate losses suffered by DOD employees affected by base closures and realignments. Further, the committee urges the department to pursue closure of major military installations overseas. Introduced and referred to House Committee on Armed Services, Apr. 29, 1992. Reported May 19, 1992 (H.Rept. 102-527). Passed by House as amended (198-168), Jun. 5, 1992. Signed into law Oct. 23, 1992.

H.R. 5428 (Hefner)

Military Construction Appropriations Act 1993. Makes appropriations for military construction for the Department of Defense for the fiscal year ending Sept. 30, 1993, and for other purposes. Recommends funding for base realignment and closure programs (BRAC I and BRAC II) in the amount of $2,034,300,000. Within this total, $443,500,000 is to be spent on activities associated with environmental restoration at closure sites. Section 125 extends the operation of the Defense Environmental Restoration Task Force created under P.L. 101-510 to explore ways to expedite environmental restoration activities at bases to be closed. Introduced and referred to the House Committee on Appropriations, Jan. 29, 1992. Reported Jun. 18, 1992 (H.Rept. 102-580). Passed by House as amended (390-33), Jun. 23, 1992. Received by Senate, Jun. [illegible], 1992.

Andrew G. Mayer and David F. Lockwood

MLC-079

MILITARY FORCES OVERSEAS: HOW MANY ARE NEEDED?

...assure allies and deter belligerents...

The United States is resizing and reshaping its military forces after the Cold War, and one aspect is "bringing home the troops." Even after a year of rapid drawdowns following Desert Storm, there were still 414,000 U.S. military personnel deployed overseas in early 1992. At that time, the major concentrations were 262,000 in Europe, 45,000 in Japan, 39,000 in South Korea, 20,000 in the Near East, 11,000 in Panama, and 6,000 in the Phillipines. Announced ongoing reductions are in Europe, scheduled by the Administration to reach a level of 150,000 in 1995, and in the Phillipines, going to zero.

The Administration's national military strategy after the Cold War envisions forward presence as one foundation for defending U.S. global interests. Although the commitment in Europe is greatly reduced, a combat capable Army corps is planned as part of NATO; it would respond to crises in Europe and also in surrounding trouble spots such as North Africa and the Persian Gulf. The Pacific region is not scheduled for much change, unless relations with North Korea improve enough to permit withdrawal of an Army brigade from South Korea.

The avowed political purpose for U.S. forward presence is to demonstrate national commitment on the ground, thereby assuring allies and deterring potential belligerents. One military purpose is to have bases and forces in or near potential crisis regions, providing an intervention edge and options beyond total reliance on power projection from the United States. Another military purpose is to build coalition command structures, integrated fighting methods, and confidence with allied military partners as was done in NATO over many years.

The cost of maintaining U.S. forces overseas is a continuing issue before Congress. Many feel that host countries should help defray U.S. taxpayer costs -- the concept of burdensharing. Most host countries have acknowledged this concept, to the point where stationing forces in Japan may now be cheaper than stationing them in the United States. The amount of savings to be gained by relocating overseas units home (as opposed to inactivating them) may not be great in the future. The cost of maintaining a unit in Europe, for example, is thought to be only about 10% more than maintaining the same unit in the United States.

How many U.S. forces should be deployed overseas? Their political effectiveness is difficult to measure. Military capabilities, however, are easier to measure. Some argue that smaller numbers than planned by the administration could do the military job, if more reliance were placed on projection of forces from the United States during crises, combined with intermittent peacetime deployments of those forces to show the flag and exercise with allies. They assert that if the 150,000 person force planned for Europe after 1995 were not given contingency missions in the Persian Gulf, for example, it could probably be organized to handle other NATO missions with 100,000, or even 75,000, personnel.

LEGISLATION

P.L. 102-484, H.R. 5006

The National Defense Authorization Act for FY1993, after conference, was agreed by the House on Oct. 3, 1992 and by the Senate on October 5 and presented to the President on October 15. Section 1301 reduces by $500 million the amount of U.S. funds to be spent on overseas basing activities, although host countries can help offset the reduction if they so choose. Section 1302 limits the number of troops assigned outside the United States at the end of FY1996 to 60% of the number so assigned at the end of FY1992. Section 1303 limits the number of U.S. troops ashore in Europe to 100,000 during FY1996. Signed into law Oct. 23, 1992.

Edward F. Bruner

MLC-080

NUCLEAR TEST BAN

... a congressionally-mandated limit and end to U.S. nuclear tests ...

A nuclear test ban is the oldest item on the current nuclear arms control agenda. Three treaties limit testing to underground only, with a maximum explosive force equal to that of 150,000 tons of TNT. Congress has actively debated the issue since the start of the nuclear age. In 1992, for the first time, Congress imposed restrictions on U.S. nuclear testing.

Congress debated testing extensively in 1992 in considering amendments to bills on defense authorization and energy and water development appropriations. On Sept. 24, 1992, the House amended the conference version of H.R. 5373, the FY1993 energy and water development appropriations bill, to impose a moratorium on nuclear testing until July 1, 1993, followed by at most 15 nuclear tests for safety and 3 for reliability after congressional review. Under the legislation, the United States would halt nuclear testing after Sept. 30, 1996, unless another nation tests after that date. President Bush signed this bill into law on Oct. 2, 1992. He stressed the importance of the Super-

conducting Supercollider (SSC), which the bill also funded, and his intent to seek legislation to loosen the test restrictions. If SSC opponents had succeeded in their bid to drop SSC funding from H.R. 5373, the President probably would have vetoed the bill.

In the debate over testing, testing opponents argued that further restrictions would aid the nonproliferation regime and the Russian democracy movement, that the need for further testing is now minimal, and that the United States can improve warhead safety and maintain warhead reliability without testing. "Pro-testers" countered that a U.S. test halt would not affect key would-be proliferators, its effect on the democracy movement is hazy, and it would thwart safety and reliability programs.

With the legislation passed, attention in 1993 may turn to interpreting and implementing the amendment. For example, most U.S. nuclear tests have multiple purposes. Does the amendment preclude obtaining data from safety tests for any purpose other than safety? Other issues concern links between the amendment and two treaties. The Threshold Test Ban Treaty requires the United States and Russia to notify each other far in advance of nuclear tests; the amendment will delay tests and upset the schedule of notification. The Nonproliferation Treaty faces a conference in 1995 to determine whether or not to extend the treaty; some nations see U.S. adherence to a comprehensive test ban as a requisite for extending the treaty. Will a promised 1996 halt to testing convince non- nuclear nations to support extending the treaty in 1995?

Jonathan Medalia

MLC-081

POWS AND MIAS: STATUS AND ACCOUNTING ISSUES

...legislation would change procedures...

Controversy intensified during the 102d Congress regarding the status of American prisoners of war (POWs) and missing in action (MIAs) from (1) the Vietnam War; (2) the Korean War; (3) aircraft lost during Cold War incidents with Communist countries; and (4) World War II incidents in which the Soviet Union did not return U.S. POWs liberated from the Germans to U.S. custody. Congress responded as follows:

-- Establishing the Senate Select Committee on POW/MIA Affairs (S. Res. 82, 102d Congress, Aug. 2, 1991) to investigate the issue.

-- Requiring the Department of Defense and other Federal agencies to release virtually all classified information relevant to Vietnam War POW/MIAs (sections of the FY1992 National Defense Authorization Act); and to prepare a report on similar information relevant to Korean War and World War II POW/MIAs (provisions of the FY1992 Intelligence Authorization Act). DOD is implementing these statutes by acquiring space for the released information, initiating systematic declassification review of the documents, and preparing a system for orderly indexing and access to them. The first increment will be available for public access in the Library of Congress in early 1993.

-- Enacting S.Res. 324 (July 2, 1992), expressing the sense of the Senate that all POW/MIA records be declassified as rapidly as possible consistent with U.S. national security.

Investigations since 1991 by the Senate POW/MIA Committee have generated the most substantial case yet made that some American POWs may not have been returned at the end of the Vietnam War in 1973. The Russian Government has stated that a few Americans liberated from German POW camps at the end of World War II were imprisoned by the Soviets; that Soviet agents did interrogate U.S. POWS during the Korean War; and that some crewmen of U.S. aircraft taken prisoner in so-called "Cold War shootdown" incidents in the 1950s were held by the Soviets.

The issue of whether live Americans were left behind in Indochina, or whether any are still alive, has been debated since the Vietnam War ended. Those who believe that live Americans are still being held, or were held after the end of the war, tend to feel that even if no specific report of live Americans has thus far met rigorous standards of proof, the cumulative mass of information about the presence of live Americans is compelling. Those who find it doubtful that live Americans are still being held, or were kept at the end of the war, argue that despite vast efforts, not one report of a live American has been validated. The U.S. Government says the possibility of live Americans still being held in Indochina cannot be ruled out. There is a scenario that might reconcile the competing propositions advanced by both sides of the debate: that live Americans may have been kept by the Vietnamese after the war ended in early 1973, but were killed when it became apparent that (1) they could not be used as bargaining chips in negotiations for U.S. aid, or (2) when a growing Western, including American, presence in Vietnam led the Vietnamese to think that their existence would be uncovered. Increased U.S. access to Vietnam, and diplomatic and other contacts with Vietnamese officials, have not yet resulted in substantial clarification of MIA issues. There is little doubt on the part of anyone associated with the issue that the slow return of remains since 1973 suggests the Vietnamese have a stockpile of remains which they release as they see fit.

The U.S. Government maintained an intensive interest in the possibility of live American POWs from the Korean War still being held in North Korea, China, or the Soviet Union throughout the 1950s. The intensely bitter relations between the U.S., North Korea, China, and the Soviet Union at the time suggests that some of these countries could well have held live Americans after the Korean War ended in 1953.

During the Cold War, some U.S. military aircraft were shot down by various Communist countries other than in wartime. There were indications at the time that the Soviets captured some of these planes' crews alive, and Russian Government authorities, including Russian President Yeltsin, have stated that during the 1950s some U.S. aircraft were shot down over Soviet territory, and some of their crew members survived.

In addition to the legislation noted above, the FY1992 National Defense Authorization Act authorized establishment,in the National Capital Region, of a Family Support Center for Vietnam War POW/MIA families, and directed that the statutorily-recognized POW/MIA flag (P.L. 101-355; 104 Stat. 416) to be displayed in national cemeteries, the Vietnam Veterans Memorial, and various other Federal buildings on days designated by law as National POW/MIA Recognition Day.

Legislation introduced, but not enacted, would change procedures for a presumptive finding of death of a missing servicemember, and impose various restrictions on U.S. relations with Vietnam, Laos, and Cambodia if conditions relevant to an accounting of POW/MIAs were not met.

LEGISLATION

P.L. 102-190

FY1992 National Defense Authorization Act. *SECTION 1082.* Disclosure of Information Concerning United States Personnel Classified as Prisoner of War or Missing in Action during Vietnam Conflict. Directs the Secretary of Defense to make available to the public DOD records and other information on all persons classified as POW or MIA during the Vietnam era. Specifies that the records shall be placed in a library-like facility in the National Capital region. Prohibits public release of information on living persons unless they consent in writing. Prohibits the release of information on a person who is dead, incapacitated, or whose whereabouts are unknown unless "a family member or family members of that person determined to be appropriate by the Secretary of Defense" consents. Allows the Secretary of Defense to withhold information from public release if such release "may compromise the safety of a Vietnam-era POW/MIA who may still be alive in Southeast Asia," but requires an immediate notification of the President and Congress of his decision. Requires DOD information on the date of enactment of the Act to be made available for public release no later than 3 years after the Act's enactment. Requires information that comes into DOD custody after enactment of the Act to be available for public distribution as soon as possible, but no later than one year after enactment of the Act. *SECTION 1083.* Family Support Center for Families of Prisoners of War and Persons Missing in Action. Directs DOD to establish, in the National Capital Region, a Family Support Center to provide "information and assistance" to Vietnam War POW/MIA families. *SECTION 1084.* Display of POW/MIA Flag. Directs the statutorily- recognized POW/MIA flag (P.L. 101-355; 104 Stat. 416) to be displayed in national cemeteries, the Vietnam Veterans Memorial, and various other Federal buildings on days designated by law as National POW/MIA Recognition Day. Signed into law Dec. 5, 1991.

P.L. 102-183

FY1992 Intelligence Authorization Act, SECTION 406: Report Concerning Certain United States Personnel Classified as Prisoner of War or Missing in Action during World War II or the Korean Conflict. Directs the Secretary of Defense to submit a report on World War II and Korean War POW/MIA to the Senate Select POW/MIA and Armed Services Committees, and to the House Armed Services and Intelligence Committees, no later than 90 days after enactment of the Act, setting forth (1) the number of military personnel and civilians remaining unaccounted for from World War II and the Korean War; (2) a description of the military records pertaining to such individuals and their accessibility to family members and the public; (3) a description of records not available to the public or to family members and an explanation as to their unavailability; and (4) "an assessment of the feasibility and costs of identifying, segregating, and relocating all such records to a central location within the United States, including an estimate of the percentage of such records which are currently maintained by the Department of Defense." Signed into law, Dec. 4, 1991.

S.Res. 324 (Kerry)

Expresses the sense of the Senate that the President of the United States should expeditiously issue an executive order requiring all executive branch departments and agencies to declassify and publicly release without compromising United States national security all documents, files, and other materials pertaining to POWs and MIAs. Reported by Senate Select Committee on POW/MIA Affairs, July 2, 1992; passed Senate 96-0(Rollcall vote no. 144 Leg.), July 2, 1992.

Robert L. Goldich

MLC-082

SEAWOLF (SSN-21) ATTACK SUBMARINE

...debate over rescission and the industrial base...

In January 1992, the Administration announced that it was terminating the Seawolf (SSN-21) attack submarine program and would seek rescission of funding for the second and third Seawolf submarines procured in FY1991 and FY1992. Under the

Administration's plan, only the first Seawolf, funded in FY1989, would be completed, primarily for use as a technology demonstrator. The Administration argued that given the end of the Cold War and plans to reduce defense spending, the United States no longer needed or could afford the Seawolf program.

The Administration's Seawolf rescission proposal was the predominant Navy budget issue debated in Congress in the Spring of 1992. In the end, Congress decided to retain funding for the second Seawolf as well as $540.2 million in additional funding to be used to help preserve the submarine- construction industrial base.

In considering the Administration's proposed Seawolf rescission, Congress considered several issues, including the following: How many attack submarines does the United States need for the post-Cold War era, and what should be their roles and missions? How much money would the proposed Seawolf rescission save? What are the minimum essential elements of the submarine-construction industrial base, and what is the lowest-cost option for preserving these elements?

The Navy for several years planned to achieve and maintain a force of 100 nuclear-powered attack submarines. The Administration reduced the goal to 80 boats in early 1991, and to about 55 boats in mid-1992. Some in Congress support reducing it further, to 40 or fewer boats.

The issue of how much money the Seawolf rescission would save was the subject of much confusion and disagreement. Some in Congress argued that the rescission could save more than a billion dollars, while others argued that it would save little money or even cost the government more than completing the second and third boats.

The industrial base issue focuses on the question of whether the United States in the post-Cold War era needs to preserve two nuclear- warship construction shipyards or one. Currently, the Connecticut-based Electric Boat Division (EB) of General Dynamics Corporation builds submarines while Virginia- based Newport News Shipbuilding (NNS) of Tenneco, Inc. builds both submarines and nuclear-powered aircraft carriers. As with the issue of cost savings, there was disagreement and uncertainty in Congress over the effects on the industrial base of the proposed rescission, and on how to best preserve the industrial base for a new attack submarine called the Centurion planned to enter procurement in the late 1990s.

The debate in Congress over the attack submarine force level and post- Cold War roles and missions for attack submarines appears likely to continue in the 103rd Congress. Similarly, Congress' decision on the Seawolf rescission proposal did not resolve the issue of the future of the submarine-construction industrial base, and debate on this question will likely resume in 1993.

LEGISLATION

P.L. 102-298, H.R. 4990/S. 2403

The package of rescission proposals submitted by the Administration on Mar. 20, 1992 that included the Seawolf rescission proposal became H.R. 4990 in the House and S. 2403 in the Senate. Defense subcommittee of House Appropriations Committee approved proposed rescission for the third Seawolf but rejected proposed rescission (i.e., retained funding) for the second Seawolf, Apr. 9, 1992. Full Committee confirmed this decision Apr. 28, 1992. Reported as H.R. 4990, Apr. 29, 1992 (H.Rept. 102-505). Passed House May 7, 1992, 412 to 2.

Senate Appropriations Committee voted to reject proposed rescission for both the second and third Seawolf submarines, Apr. 30, 1992. Reported as S. 2403 Apr. 30, 1992 (S.Rept. 102-274). Senate rejected, May 5, 1992, 46 to 52 amendment offered by Senator McCain to restore Administration's proposed rescission of both the second and third Seawolf submarines. Passed Senate, May 6, 1992, 61 to 38. Bill incorporated in H.R. 4990 as amendment and H.R. 4990 passed in lieu of S. 2403 by unanimous consent May 12, 1992. Conference report on H.R. 4990 (H.Rept. 102-530) filed May 20, 1992. Report retained funding for the second Seawolf and additional $540.2 million "to be used by the Navy to help preserve the industrial base for submarine construction. The conferees direct the Secretary of the Navy to use these funds either to provide advance procurement for the third Seawolf submarine (SSN-23) or to restart the SSN-688 program, or any other approach he deems to be most beneficial in preserving the current submarine industrial base." House and Senate agreed to conference report, May 21, 1992, 404 to 11 and 90 to 9. Signed into law June 4, 1992.

Ronald O'Rourke

MLC-083

STRATEGIC BOMBERS

the next generation

During the decades of the Cold War, the U.S. strategic bomber force was dedicated primarily to the deterrence of nuclear war, although B-52s were used in the non-nuclear conflicts in Vietnam and in the Persian Gulf. The post-Cold War era U.S. strategic bomber fleet consists of aging but modernized B-52s, untried B-1Bs with a history of problems, and a much smaller number of still developing B-2s, most of which have been paid for. The role that heavy bombers should play within the U.S. military force structure is an emerging issue of concern to the Department of Defense as well as to Congress.

The B-1B strategic bomber program has cost $27.4 billion during FY1981- 1992. The B-1B was intended to replace the aging fleet of B-52s that had long been

the mainstay of the Strategic Air Command, and to be a multipurpose bomber that could be used for a variety of non-strategic missions. Procurement funding was completed in FY1986, and delivery of the 100-aircraft fleet of B- 1Bs was completed by April 1988 (the fleet now numbers 97, after 3 crashes). Since reorganization of the Air Force and the new emphasis on conventional missions for all the heavy bombers, current and future B-1B funding concentrates on enhancements and modifications to enable the B-1B to carry a greater variety of conventional munitions. Congress explicitly endorsed the exploration of conventional options for the B-1B in the legislation authorizing funds for FY1992. Problems with the B-1B's defensive avionics system as well as other defects continue to be of concern, and Congress required progress reports on solving these problems in the FY1992 legislation. For FY1993, the Congress appropriated nearly $300 million for the B-1B program.

The B-2 Advanced Technology Bomber or "stealth" bomber was originally designed to penetrate Soviet territory to attack targets at close range during a nuclear war. The B-2 incorporates "stealth" technology (involving radar deception and radar-absorbing materials) intended to make it very difficult for enemy air defenses to detect. The B-2 is expected to achieve initial operational capability in the late 1990s. Nearly $34 billion has been appropriated for the B-2 through FY1992. The Air Force plans to build 20 B-2s at a cost of some $44 billion. Since the disappearance of the Soviet nuclear military threat and the demonstrated success of stealth technology during the Persian Gulf War, emphasis has been on the ability of the B-2 to execute conventional missions. Funding for the B-2 will complete the buy of 20 aircraft and will provide for adjustments necessary to maximize the B-2's conventional potential.

Now that the Air Force has reduced its plan for B-2 procurement, debate over whether to continue the program has largely abated. Even many traditional congressional opponents of the program have accepted the idea of the B-2 serving a "silver bullet" function in the kinds of conflicts that seem most likely, conventional ones in the Desert Storm mode. Critics of the B-2 argue that it is an unproven program designed for purposes --strategic as well as conventional -- that could probably be performed as well by other aircraft at far less cost. Alternatively, some critics assert that naval carrier-based aircraft could be substituted for the B-2in many of its potential missions. Additionally, they point to the failure of one of the B-2's low observability tests in 1991 as an indication that problems are likely to continue to be found, as they were in the B-1B. They tend to dismiss the potential use of the B-2 in conventional roles, characterizing such plans as wasteful and unrealistic; they point out that use of other aircraft in conventional missions would be more rational and more likely. During the FY1990, FY1991, FY1992 and FY1993 defense budget process, provisions were enacted to reduce or increase restrictions on B-2spending; indeed, an increasing body of opinion in Congress wished to curtail the B-2 program completely, and prevailed, in the FY1992 defense legislation, over B-2 supporters: although 90% of the Administration's funding for the B-2 was approved, production of the aircraft was limited to 15 B-2s. It should be noted that during the FY1992 debate, the Soviet Union was disintegrating; it had ceased to exist as a military superpower by the time the Air Force decided to reduce its planned buy to 20 B- 2s, in early 1992. Congress approved, conditionally, the funding for the last of the 20-aircraft fleet of B-2s in the FY1993 legislation.

Until mid-1991, some B-2 proponents had advocated phasing down the B-1B to pay for B-2 costs, arguing that if both bombers were not affordable, the B-1B should be the one to be sacrificed. Other observers, in Congress and elsewhere, have long stressed the versatility of the B-1B in non-nuclear missions, hoping for increased attention to the B-1B's potential. As the strategic bomber force was removed from its nuclear alert status in September 1991, and the 20-aircraft B-2 fleet was announced as a goal, attention to the B- 1B's conventional roles began to become more apparent within the Air Force. The "Bomber Road Map," submitted to Congress in June 1992, sets forth the Air Force's plans for the B-52, B-1B and B-2 fleets through the early 21st century.

LEGISLATION

P.L. 102-396, H.R. 5504

FY1993 Defense Appropriations. The Conference Committee (H.Rept. 102- 1015, Oct. 5, 1992): Conferees recommended the requested amount for B- 2 procurement and R&D. For the B-1B, they recommended $167.4 million for procurement, $45.754 million for aircraft modifications, and $86.391 million for R&D. For the B-52, they recommended $76.71 million for procurement, and $22.0 million for R&D. Signed into law Oct. 6, 1992.

P.L. 102-484, H.R. 5006

FY1993 Defense Authorization. The Conference Committee (H.Rept. 102- 966, Oct. 1, 1992) recommended the requested amount for B-2 procurement and R&D. For the B-1B, the conferees recommended $167.4 million for procurement, $50.254 million for aircraft modifications, and $86.4 million for R&D. None of the funds authorized for B-1B procurement may be used for procurement for deferred logistics support for the ALQ-161A system. For the B-52, they recommended $76.710 million for aircraft modifications and $28.3 million for R&D, including $15.0 million for HAVE LITE (precision air-to-surface missile) testing. Con-

ferees also agreed to a modified version of the Senate provision on further testing of heavy bombers against conventional defenses. Conferees directed the Secretary of Defense to submit a report to the congressional defense committees outlining DOD's plan for the restructuring of U.S. strategic forces pursuant to the terms of the START treaty and the US-Russian Joint Understanding of June 17, 1992. Signed into law Oct. 23, 1992.

Dagnija Sterste-Perkins

MLC-084

STRATEGIC DEFENSE INITIATIVE

...Congress funds a limited system...

From its inception in 1983, the Strategic Defense Initiative (SDI) has been characterized as a long-term technology research program designed to examine the feasibility of developing defenses against ballistic missile attack. Some $29 billion has been spent to date on this effort.

President Bush says he strongly supports SDI research and will seek to deploy a missile defense system when it is ready. In 1991, in response to concerns in Congress and elsewhere, President Bush requested that the SDI program be refocused to provide protection from limited ballistic missile attacks, whatever their source. As a result, the program was redirected toward deploying a system called GPALS (Global Protection Against Limited Strikes). GPALS would consist of thousands of ground- and space-based missile interceptors, as well as ground- and space-based sensors. Theater missile defenses, designed to thwart shorter range missile attacks, would be integrated into GPALS. The Administration envisions its deployment beginning in the late 1990s. The current cost estimate to build and deploy GPALS is $41 billion beyond what has been spent to date.

In 1991, Congress passed the Missile Defense Act (MDA), which approved funding a Limited Protection System (LPS). An LPS would be significantly smaller than GPALS, would comply with the ABM Treaty, and be deployed no earlier than the late 1990s. The MDA was modified in 1992, removing any specific year for deployment and adding specific prohibitions against deploying an ABM system that would violate the ABM Treaty. Congress continued to push for advanced development and deployment of theater missile defenses by creating a new Theater Missile Defense Initiative out of the theater missile defense programs in the SDI.

Although the SDI program met with initial skepticism from U.S. allies and friends, many allies and foreign firms are participating in the development of SDI technologies, though at levels far lower than anticipated. Most of the funding for foreign participation in SDI entails joint development of the U.S. - Israeli Arrow tactical missile interceptor on a cost-sharing basis.

There are two key policy issues of current interest to Congress. First, despite support over the past 2 years for the proposed limited defense system under the MDA, continued support is not assured given its officially estimated $16-$18 billion cost. Second, there remains controversy over the arms control implications of deploying GPALS missile defenses that would exceed limits permitted by the 1972 ABM Treaty.

LEGISLATION

P.L. 102-484, H.R. 5006
Department of Defense Authorization Act, FY1993. The Bush Administration requested $5.4 billion for SDI. The House approved $4.3 billion, including $2 billion for development of a Limited Protection System. The Senate Armed Services Committee approved $4.24 billion, including $2.1 billion for the limited defense system. Conferees agreed to authorize $3.98 billion, including $3.04 billion for strategic defense programs, and $935 million for the new Theater Missile Defense Initiative. Signed into law Oct. 23, 1992.

P.L. 102-396
FY1993 Department of Defense Appropriations Act. The House Appropriations Committee approved $4.3 billion for SDI (including about $1 billion for theater missile defenses), while the Senate Appropriations Committee approved $3.725 billion for SDI spending. Conferees agreed to the Senate funding level of $3.725 billion. Signed into law Oct. 6, 1992.

Steven A. Hildreth

MLC-085

TACTICAL AIRCRAFT MODERNIZATION

...Innovations and Renovations

Tactical combat aircraft -- fighters, fighter/attack planes, and attack planes -- constitute a major component of U.S. military capability. They played a prominent role in Operation Desert Storm and would probably play a major role in future U.S. military operations, particularly where U.S. leaders may wish to avoid or limit commitments of U.S. ground forces. Tactical aviation, including both combat and support aircraft, accounts for up to one-fifth of the defense budget, counting the costs of developing, procuring, and operating aircraft, engines, avionics, and weapon systems as well as manpower, training, and administrative costs. The U.S. military operates about 5,300 fix-

ed-wing tactical combat aircraft, of which the Air Force operates about 62% and the Navy and Marine Corps about 38%. The development of "stealth aircraft," which currently are invisible to radar, has become a major goal in U.S. tactical aviation.

As announced in 1992, the Bush Administration's plan for modernizing U.S. tactical combat aircraft focused on four key aircraft programs: (1) the F-22, a new stealth fighter plane for the Air Force; (2) the F/A-18E/F, a new version of the F/A-18 fighter/attack plane for the Navy and Marine Corps; (3) the AX, a new stealth attack plane for both the Navy and the Air Force; and (4) the Multirole Fighter (MRF), a new or upgraded fighter/attack plane for the Air Force. Developing and procuring these four aircraft as planned might cost upwards of $300 billion in FY1993 dollars over the next 40 years.

Congress has questioned the Administration's tactical aircraft modernization plan on grounds of affordability, timing, and military requirements. Decisions on tactical aircraft modernization programs will have important and long-range implications for U.S. military capability, force levels, service roles and missions, defense funding requirements, and the U.S. aerospace industry. Members of the defense oversight committees have called for an assessment of tactical aircraft programs from a joint, interservice perspective, rather than on a program or service basis, as in the past.

The House Armed Services Committee concluded that the Administration's proposed plan had major problems in regard to affordability and sequencing. As a major initiative for FY1993, the Committee proposed a restructured plan that would increase the use of prototypes in the F/A-18E/F and AX programs and would make these programs concurrent rather than sequential, perhaps to set the stage for choosing one program over the other.The Senate Armed Services Committee modified the Administration's plan in accordance with committee initiatives to conduct a review of service roles and missions and to require multiservice cooperation on future tactical aircraft. The Committee required the use of competitive prototypes in the AX program, questioned the need for the AX in view of land-based bomber capabilities, and directed the Air Force to use the F/A-18E/F as the MRF.

The House Appropriations Committee was generally supportive of the Administration's plan, but it also added funding for upgrading the Navy's F-14 fighter as a hedge against possible problems in the F/A-18E/F or AX programs. The Senate Appropriations Committee reduced funding for tactical aviation without earmarking funds for specific programs. The Committee voiced concern "about the pace, content, annual funding requirements, and overall affordability" of the programs; called on the Secretary of Defense "to set priorities among these programs within the context of a more fiscally constrained defense budget" in FY1994; and restricted spending of "two-thirds of the funds provided until the Secretary of Defense submits a report with the FY1994 budget request, or no later than May 15, 1993, addressing the military and fiscal validity of the programs."

In the final days of the 102d Congress, House and Senate conferees agreed to authorize and appropriate FY1993 funding for the F-22, the F/A-18E/F, and the AX programs at about the levels requested. Obligation of these funds was restricted, however, to 65% pending submission to Congress of the Defense Department's reassessment of these programs in terms of affordability, requirements, and military missions in post-Cold War situations. In the FY1993 defense budget, Congress provided $2 billion (vs. $2.2 billion requested) for the Air Force F-22, $944 million (vs. $1.1 billion requested) for the Navy/Marine Corps F/A-18E/F, and the $166 million requested for the Navy's AX program.

LEGISLATION

P.L. 102-396
Department of Defense Appropriation Act, FY1993. Appropriates funding authorized for F-22, F/A-18E/F, and AX tactical aircraft programs.

P.L. 102-484, H.R. 5006
National Defense Authorization Act, FY1993. Authorizes Navy and Air Force R&D funding for F-22, F/A-18E/F, and AX tactical aircraft programs. Signed into law Oct. 23, 1992.

Bert H. Cooper

MLC-086

THEATER BALLISTIC MISSILE DEFENSE

...broad congressional support...

The United States has an operational antitactical missile (ATM) system, the Patriot, which was used against short-range Iraqi Scud missiles in the Persian Gulf war. Although the Patriot was initially developed by the Army as an air- defense weapon, it acquired an ATM capability in the 1980s in response to Patriot's vulnerability to attack by accurate Soviet tactical ballistic missiles in Eastern Europe. As a collateral benefit, it was believed that limited protection could also be extended to other assets in the area near of the Patriot system.

Throughout the 1980s, there was a congressional consensus for early deployment of an effective theater ballistic missile defense capability. While near-term ATM research and development efforts were conducted by the Army, research and development of longer term technologies (antitactical ballistic missiles -- ATBMs) were pursued by the SDI Organization. This division of responsibilities was made explicit by Congress in FY1987. Congress returned to the issue of management responsibility and direction of ATBM work in FY1991 when it required that the Defense Department establish a centrally managed Theater Ballistic Missile Defense Program. The Defense Department gave management of this new program to the SDI Organization. In the FY1993 Defense Authorization bill, Congress removed all theater missile defense efforts from SDIO by creating a new Theater Missile Defense Initiative (TMDI) office within the Defense Department.

To many, the Gulf War demonstrated the importance of having effective defenses against the growing threat posed to U.S. troops and allies overseas by short-range ballistic missiles. The use of Patriot in the Gulf war has sharpened congressional interest in promoting a coherent theater missile defense effort. There remains broad support for a more focused program to deploy a more effective tactical and theater defense system as soon as possible.

Congress will confront a range of policy questions regarding TMD. First, should theater missile defenses be integrated into a more comprehensive SDI system, as the Bush Administration would prefer? Second, should the Army, the SDI Organization, both or another organization control the scope and direction of TMD research and development? Third, what are the most plausible theater ballistic missile threats facing the United States today and in the next 10 years, and to what extent should active missile defenses play a part in U.S. defense planning?

LEGISLATION

P.L. 102-484, H.R. 5006

Department of Defense Authorization Act, FY1993. The Bush Administration requested $1 billion for theater and tactical missile defenses. The House and the Senate Armed Services Committees approved this amount with some minor earmarking of TMD funds for new Navy TMD programs. Conferees also did not modify these amounts. Introduced Apr. 29, 1992. Signed into law Oct. 23, 1992.

P.L. 102-396

FY1993 Department of Defense Appropriations Act. Signed Oct. 6, 1992 The House Appropriations Committee approved $4.3 billion for SDI (including about $1 billion for theater missile defenses), while the Senate Appropriations Committee approved $3.725 billion for SDI spending. Conferees agreed to the Senate funding level of $3.725 billion.

Steven A. Hildreth

MLC-087

V-22 OSPREY TILT-ROTOR AIRCRAFT

...program termination proposed...

The V-22 Osprey is a tilt-rotor aircraft that takes off and lands like a helicopter but flies like a plane when its wing-mounted rotors are tilted to function as propellers. The future of this innovative aircraft has been a major issue of contention between Congress and the Bush Administration. Begun in 1981 as the JVX (joint-service vertical takeoff/landing experimental aircraft) program, the V-22 entered full-scale development in 1986 as a Marine Corps program funded by the Department of the Navy.

The first of six prototype aircraft was flown on Mar. 19, 1989, with deliveries of production aircraft then projected to begin in 1992. In April 1989, however, Secretary of Defense Cheney canceled the V-22 program. Because of strong congressional support for the program, research- development (R&D) funds were provided in FY1990, FY1991, FY1992, and FY1993. Congressional support for the V-22 has increased over these years in the face of Secretary Cheney's continued opposition to the program.

The V-22 Osprey is being developed and produced by Bell Helicopter Textron and Boeing Helicopters. Based on a tilt-rotor aircraft developed by Bell Helicopter and first flown in 1977, the V-22 combines the helicopter's operational flexibility with the greater speed, range, and efficiency of a fixed-wing aircraft. The V-22 could perform a number of Marine Corps, Army, Air Force, and Navy missions, including amphibious assault, troop/cargo transport, special operations, search and rescue, and antisubmarine warfare. In addition to its military missions, derivatives of the V-22 tilt-rotor could be used in civil aviation for short-distance and commuter flights as well as drug-interdiction operations, disaster relief, and environmental protection activities.

The V-22 has been a major defense issue since the Defense Department proposed its cancellation in 1989. Termination of the program has been strongly opposed in the Congress, which has supported the tilt-rotor aircraft as a promising new technology with multiservice applications as well as implications for civil aviation and foreign sales. Proponents of the V-22 argue that it can replace aging helicopters in all four services with a multipurpose aircraft having more capability. The program has been opposed by Defense Department officials primarily on budgetary grounds. Its critics question the affordability and military value of the V-22 and doubt its commercial feasibility.

LEGISLATION

P.L. 102-396
Department of Defense Appropriation Act, FY1993. Appropriates $755 million for the V-22 program as authorized in H.R. 5006 (P.L. 102-484).

P.L. 102-484, H.R. 5006
National Defense Authorization Act, FY1993. Authorizes $755 million in Navy R&D funding for development and manufacture of three more productica- representative V-22 aircraft in addition to the three funded by Congress for FY1992. signed into law Oct. 23, 1992.

Bert H. Cooper, Jr.

NATURAL RESOURCES

MLC-088

ARCTIC NATIONAL WILDLIFE REFUGE: DEVELOPMENT VS. PRESERVATION

...ANWR has been part of larger debate on national energy policy...

On Nov. 1, 1991, the Senate rejected an attempt to consider S. 1220, a bill which contained a title that would have opened the Arctic National Wildlife Refuge (ANWR) to development. During later Senate consideration of S. 2166 (a bill similar to S. 1220 but lacking certain controversial features -- including the ANWR title), an amendment to open the Refuge to energy development was debated, but was not actually offered. The House did not take up ANWR legislation.

ANWR is an area rich in fauna, flora, and oil potential. Current law forbids energy leasing. Development proponents argued that any ANWR oil would help to insulate our energy markets from the recurring crises of the Middle East and could be developed safely. Opponents argued that ANWR's balanced ecosystem is more valuable intact, provides no lasting energy security, can be replaced by a variety of cost-effective alternatives, and should be legally designated as wilderness, or at least remain as an area in which energy development is forbidden. The Bush Administration supported ANWR development; President-elect Clinton opposes it. In January 1991, the Department of the Interior increased its estimate of "the marginal probability of economic success (i.e., the potential for oil recovery)" from 19% (a high figure by industry standards) to 46%. On Oct. 14, 1992, ARCO Alaska and its partners announced an oil find in the Beaufort Sea off the coast of ANWR. Not much information could be obtained from the single well, but the consortium is optimistic enough to drill more wells. The implications for ANWR's prospects remain unclear.

Efforts in the 100th and 101st Congresses to allow development of the coastal plain of the ANWR in northeastern Alaska terminated with the *Exxon Valdez* oil spill. However, the crisis in the Persian Gulf gave a major boost to development proponents, though the failure of the market to sustain the higher prices of late 1990 diminished their arguments somewhat. In addition, President Bush made increased drilling in frontier areas, including ANWR, a centerpiece of his proposed national energy policy. Proponents argue that, while an ANWR discovery would not eliminate dependence on foreign oil, it could alleviate the problem to some degree. The current legislative options include designating the area as wilderness, thereby ending the potential for development. Congress could also allow exploration, with or without development, to proceed. Another option is to take no action. This choice, the one made by the last three Congresses, also prevents development, since the relevant statute requires congressional action for oil development to occur.

Many complex and difficult issues would be involved with a decision to proceed. Though seismic studies and drilling outside the ANWR coastal plain strongly suggest there is or was a significant quantity of oil, many questions remain. How might any exploratory drilling proceed? Who would pay the costs? How would the leasing options be awarded? How would the small Native population (around 200 people) living on the Refuge fare, and how would Native groups dependent on caribou calving in the area be affected? What environmental protection measures would be appropriate, and how would change of habitat affect the great wealth of plant and animal populations? Assuming there are development revenues from bonuses, rents, and royalties, how would these monies be divided among the Federal Government, the State of Alaska, and others?

LEGISLATION

S. 1220 (Johnston)
Comprehensive national energy policy bill. One title opens ANWR to development. Introduced June 5, 1991; reported by Committee on Energy and Natural Resources June 5, 1991 (S.Rept 102-72). Cloture vote on motion to proceed to consideration failed (50-44) Nov. 1, 1991 (Roll call #242).

M. Lynne Corn

MLC-089

WATER RESOURCES ISSUES

...omnibus reclamation water bill enacted...

Western water supply issues involve the question of what the proper Federal role should be in water resource development and management. Current Federal water supply policy is generally based on conditions present at the turn of the century -- an economy based largely on agricultural production, a desire to settle and develop the arid lands of the West, and an outlook that natural resources were to be developed and rivers harnessed for use. As a result of large projects built by the U.S. Bureau of Reclamation (Bureau) and other Federal agencies throughout the West, most demands for water were met. In recent years, however, increased population, prolonged drought conditions, and increased demand for water for fish and wildlife, recreation, and scenic enjoyment (all instream uses) have put new demands on water supplies. Consequently, water supply issues have become more numerous, more diverse, and more pressing.

A number of controversial issues are related to the increasing friction between urban and agricultural users. Bureau irrigation water is often less costly than water supplied to urban users by local water agencies. Additionally, because of the volume of water the Bureau controls, its water is often looked upon as the only readily accessible additional source in times of drought. Should the U.S. Government change the way it operates its projects to service urban needs or fish and wildlife concerns? If so, how can it minimize any interruption in the supply to farmers? Other issues involve the amount of Federal water subsidies accruing to large farm operations and the use of subsidized water to grow "surplus crops."

Another issue involves the effect on fish and wildlife of large dam and diversion operations. In some areas, water diversions have lowered instream flows or altered water temperature, contributing to declines in fish and wildlife populations and triggering the listing of some species under the Endangered Species Act. Such listings could affect the way the Federal Government operates some of its large water supply projects. Streamflows also affect power generation, and legal questions have arisen over Federal/State rights in this regard.

Approaches to increasing supplies are also at issue. Structural or technical proposals for expanding supplies include interbasin transfers, recharging groundwater sources, and desalting brackish or otherwise heavily salted waters. Conservation approaches, which include such techniques as drip irrigation and lining irrigation canals, are less capital intensive. More direct approaches to water management include regulating prices, establishing water markets, and expanding Bureau water transfers.

The 102d Congress addressed some of these issues by passing a 40-title omnibus reclamation bill (H.R. 429, P.L. 102-575). It authorizes construction of projects in several Western States. It is considered by some to be landmark legislation because it includes specific requirements to consider and to mitigate for fish and wildlife impacts while undertaking project construction and operations. The bill also limits contract renewals in the Central Valley Project area to 25 years and allows the Secretary to alter the terms of such contracts, pending completion of an environmental impact statement. An emergency drought bill (H.R. 355) was also passed and signed into law (P.L. 102-250).

LEGISLATION

P.L. 102-250, H.R. 355

Reclamation States Emergency Drought Relief Act of 1991. Authorizes the Secretary of the Interior to construct, manage, or otherwise conserve water to mitigate losses resulting from drought conditions. (Construction activities are limited to temporary facilities except for wells.) Also authorizes the Secretary to purchase water from willing sellers and distribute water to users within and outside of Bureau project areas, as well as to fish and wildlife, and to make loans to water users to undertake activities to mitigate impact of the drought. Grants the Secretary permanent authority to conduct studies to conserve, augment, or make more efficient use of water supplies and to develop drought contingency plans. Contingency plans may include elements to establish water banks and transfer reclamation water. Authorizes appropriations of $90 million total through 1996 and an additional $12 million for temperature control devices at Shasta Dam. Introduced Jan. 3, 1991; referred to Committee on Interior and Insular Affairs. Committee markup held Mar. 13, 1991; reported Mar. 15, 1991 (H.Rept. 102-21, Part I). Passed House Mar. 21, 1991. Referred to Senate Committee on Energy and Natural Resources. Subcommittee on Water and Power held hearings May 15 and Sept. 25, 1991. Reported out of full Committee with an amendment in the nature of a substitute Oct. 8, 1991 (S.Rept. 102-185); passed Senate by voice vote Oct. 31, 1991. House disagreed with Senate amendment and requested a conference Nov. 20, 1991; Senate reconsidered and agreed to an amendment in the nature of a substitute Nov. 27, 1991. Passed House Feb. 19, 1992. Signed into law Mar. 5, 1992.

P.L. 102-575, H.R. 429 (Thomas)

Reclamation Projects Authorization and Adjustment Act of 1991. Authorizes appropriations for construction of several reclamation projects and modifies some project operations. Includes authorization for the Colorado River Storage Project; Buffalo Bill Dam; Central Utah Project; and the Lake Meredith Salinity Control Project. Makes changes in the operation of the Glen Canyon dam to protect and en-

hance fisheries and recreation in the Grand Canyon. Also includes major changes to the operation of the Central Valley Project in California (Title XXXIV). Originally introduced as Buffalo Bill Dam Act, Jan. 3, 1991; referred to Committee on Interior and Insular Affairs. Reported June 18, 1991 (H.Rept 102-114, Part I). Inserted text of H.R. 2684 (Miller) in lieu. Passed House, amended, June 20, 1991. Received in Senate June 25; referred to Committee on Energy and Natural Resources. Subcommittee on Water and Power held hearings Sept. 12 and Oct. 22, 23, and 24, 1991. Chairman Johnston circulated an unnumbered proposal Feb. 20, 1992, and held a markup session Mar. 12, 1992. Reported from Committee Mar. 19, 1992. Passed Senate Apr. 10, 1992, by a voice vote. Amended by the House June 18, 1992, incorporating text of H.R. 2099 as amended. Senate amended July 31, 1992. Conference report issued Oct. 5 (H.Rept. 102-1016). House approved Oct. 6, by voice vote. Senate approved Oct. 8, by a vote of 83-8. Signed into law Oct. 30, 1992.

S. 1228 (Hatfield)

Western Water Policy Review Act of 1991. Establishes an advisory commission to review water resource issues, providing a comprehensive review by the Secretary of the Interior of Western water resource problems and programs administered by the Geological Survey, the Bureau, and other operations of the Department of the Interior. Introduced June 6, 1991; referred to Committee on Energy and Natural Resources. Hearings held Sept. 19, 1991. Included as Title XXX (with a modification involving conservation) of H.R. 429.

Betsy Cody

SCIENCE AND TECHNOLOGY

MLC-090

AMERICAN SCIENCE AT A CRITICAL CROSSROADS

...priorities debated...

Government outlays for research and development (R&D) total about $70 billion. During the last few years, annual Government funding increases for R&D, expressed in real dollar terms, have been smaller than they were during the 1980s because of competing demands for funding, slower growth in defense R&D, and constraints imposed by the 1990 Budget Enforcement Act. Science funding is competing against such other domestic discretionary programs as housing and health services delivery. At the same time, the conduct of scientific research has become more expensive than before and an increasing number of academic scientists are clamoring for Federal support. There was debate during the 102d Congress about "big science" projects, which require large capital expenditures and long-time operating commitments and, which, some say, are eroding the number of awards that can be made for individual investigator-initiated projects. Fiscal problems are beginning to reduce State and private support for academic science at the same time that the academic plant is deteriorating, raising calls for more Federal support for overhead and for facilities repair and construction.

Inflationary pressures, coupled with FY1992 congressional appropriations action, will force funding cuts for individual investigator- initiated research programs in the National Science Foundation (NSF), the National Institutes of Health (NIH), the Department of Energy (DOE), and the National Aeronautics and Space Administration (NASA). For FY1993, Congress increased funding over the FY1992 level, but below the requested level for such "big science" projects as the Superconducting Super Collider (SSC), the Space Station, and Human Genome.

Pressure has increased to support more applied and industrially relevant research and, consequently, less basic research to enhance U.S. manufacturing, economic growth, and technological competition, especially vis-a-vis Japan and Europe. Japan devotes 3.0% of GNP to civilian R&D; the United States devotes 1.9%. Legislation was introduced to convert the missions of some military Federal laboratories to serve civilian purposes.

Congressional "earmarking" of funds for academic R&D and facilities construction totals about $700 million annually. This is intended to distribute research capability equitably and geographically, but critics say projects have not been peer reviewed competitively, and earmarked funding distorts agency goals and goes mostly to schools that already fare well in research competitions. Some have begun to question scientific integrity following a series of charges of fraud, abuse, and misconduct. There is uncertainty in Congress about the accuracy of executive branch projections about the demand for and supply of scientific personnel and about the quality of programs to attract minorities and women to the field. Foreign and international scientific activities are becoming more significant to policymaking, as the United States seeks foreign cooperation for big science projects and tries to cooperate with other countries and regions as they strengthen their scientific and technological capabilities.

Congressional groups have been examining ways to improve cross-cutting R&D priority setting in the executive branch and to improve congressional organization to strengthen legislative control over policymaking and budgeting for science.

LEGISLATION

P.L. 102-325, S. 1150

Higher Education Amendments of 1992. Section 711, "Higher Education Facilities Act of 1992," among other things, provides awards for academic facilities and libraries to State higher education agencies on the basis of population and number of students served; requires dollar for dollar matching; subtracts from the State allotment Federal facilities awards made non-competitively; authorizes $350 million in appropriations for FY1993 and each of the 4 succeeding fiscal years. Signed into law July 23, 1992.

P.L. 102-389, H.R. 5679

Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Bill, 1993. Among other things, appropriates funds for the NSF. Reduces the NSF appropriations for research and related activities by almost $300 million below the requested level for FY1993, but increases support for facilities. Increases NASA R&D funding, but at a level $250 million below the Administration's request. Signed into law Oct. 6, 1992.

P.L. 102-511, S. 2532

AmerRus Foundation for Research and Development Act of 1992. As introduced (H.R. 4550/S. 2401), creates a foundation for cooperative programs in science and technology between the United States and Russia ($25 million has been appropriated for the foundation in the FY1993 DOD appropriation). H.R. 4550 incorporated into Section 504 of H.R. 4547, the Freedom Support Act of 1992. Passed House, amended (H.R. 5750 considered in the nature of a substitute), Aug. 6, 1992. H.R. 4550 then laid on the table and S. 2532 passed in lieu. Conference report (H.Rept. 102-964) agreed to by Senate Oct. 1, 1992, and by House Oct. 3, 1992. Signed into law Oct. 24, 1992.

Genevieve J. Knezo

MLC-091

RESEARCH AND DEVELOPMENT FUNDING: FY1993

...difficult choices...

It is generally believed that research and development (R&D) of new science and technology is vital to the long-term wealth and security of the Nation. The Federal Government supports almost half of the R&D in this country. Federally funded R&D is part of the discretionary budget and must compete with other military and civilian programs. Congress is greatly interested in how much and for what Federal R&D funds are appropriated.

Congress did not fund all of the increases sought by the Administration for FY1993; however, it did increase research and development (R&D) funding for several key programs. Except for Agriculture and Energy, agency R&D funding increased from FY1992.

The FY1993 R&D appropriation for the Department of Agriculture is $1.4 billion, a 5.2% decrease from the FY1992 appropriation. The Agriculture Research Service (Agriculture's intramural research program) was reduced $16.1 million. Most of the projects in the Cooperative State Research Service, including the Special Research Grants program, which the Administration sought to reduce significantly, were maintained at last year's level. However, funding for facilities was reduced.

Congress agreed to reduce FY1993 energy-related R&D $30 million below FY1992 levels. Funding was increased for environmental restoration (20%); supporting research, which includes basic energy sciences (11%); and conservation (19%). Funding decreased for clean coal technology (-40%), general sciences (-4%), fossil energy (-6%), and nuclear fission (-6%). A compromise was reached on the Superconducting Super Collider (SSC), which the House had voted to terminate. The SSC will receive $517 million in FY1993.

In Defense, Congress increased RDT&E funding by only $100 million above FY1992 levels (to $38.2 billion), about $600 million below what the Administration requested. However, Congress increased funding for Science and Technology (S&T) programs. They also redirected about $575 million toward conversion-related programs. The Administration request for SDI was cut from $5.3 billion to $3.8 billion.

Congress voted to increase funding for the National Aeronautics and Space Administration (NASA) R&D by $240 million above FY1992 levels, but $150 million below the Administration's request. The Space Station received $2.1 billion, $71 million above last year, and Aeronautical Research and Technology was increased $127 million. Both Space Transportation Capacity Development and Space Research and Technology were reduced by $59 million and $47 million, respectively. The National Aero-Space Plane (NASP) and the Space Exploration program both were terminated.

Congress reduced the Administration's request for National Science Foundations's budget by approximately $300 million. Research and Related Activities were reduced almost $17 million below FY1992 levels. However total NSF funding was increased $158 million above FY1992. Funding for Instrumentation and Facilities was increased over $40 million.

Congress agreed to fund the National Institute of Standards and Technology (NIST) R&D at $384 million. This is $73 million above the Administration's request and $137 million above last year's funding. The Advanced Technology Program (ATP) and Manufacturing Technology Centers were funded at $86 million.

Reorganization of the Alcohol, Drug Abuse, and Mental Health Administration transferred three research institutes and $1.2 billion to NIH. The total FY1993 budget for the reconfigured NIH exceeds $10.3 billion, an increase over FY1992, but not as high as the Administration had requested. The final amount will be still lower, because of a mandated department-wide $110 million reduction. Several areas were targeted for increases, much of it focused on women's health issues.

The Environmental Protection Agency (EPA) received $510 million for R&D, $13 million more than FY1992, but $16 million less than that requested. In addition, Congress directed a $34 million general reduction in EPA's R&D funding, of which $15 million is to come from contracts.

LEGISLATION

P.L. 102-341, H.R. 5487
Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1993. Conference report (H.Rept. 102- 815) agreed to by House and Senate Aug. 11, 1992. Signed into law Aug. 14, 1992.

P.L. 102-377, H.R. 5373
Energy and Water Development Appropriations Act, 1993. Passed House June 17, 1992; passed Senate Aug. 3, 1992. Conference report (H.Rept. 102- 866) agreed to by House Sept. 17, and by Senate Sept. 25. Signed into law Oct. 2, 1992.

P.L. 102-381, H.R. 5503
Department of Interior and Related Agencies Appropriations Act, 1993. Passed House July 23, 1992; passed Senate Aug. 6, 1992. Conference report (H.Rept. 102-901) agreed to by House and Senate Sept. 30. Signed into law Oct. 5, 1992.

P.L. 102-388, H.R. 5518
Department of Transportation and Related Agencies Appropriations Act, 1993. Conference report (H.Rept. 102-924) agreed to by House and Senate Oct. 1, 1992. Signed into law Oct. 6, 1992.

P.L. 102-389, H.R. 5679
Departments of Veterans Affairs and Housing and Urban Development and Related Agencies Appropriations, 1993. Passed House July 29, 1992; passed Senate Sept. 9, 1992. Conference report (H.Rept. 102-902) agreed to by House and Senate Sept. 25, 1992. Signed into law Oct. 6, 1992.

P.L. 102-394, H.R. 5677
Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1993. Passed House July 28, 1992; passed Senate Committee Sept. 18, 1992. Conference report (H.Rept. 102- 974) agreed to by House and Senate Oct. 3, 1992. Signed into law Oct. 6, 1992.

P.L. 102-395, H.R. 5678
Departments of Commerce, Justice, and State, and the Judiciary, and Related Agencies Appropriations, 1993. Passed House July 30, 1992; passed Senate Aug. 3, 1992. Conference report (H.Rept. 102-918) agreed to by House Oct. 3, and by Senate Oct. 5. Signed into law Oct. 6, 1992.

P.L. 102-396, H.R. 5504
Department of Defense Appropriaitons Act, 1993. Passed House July 2, 1992; passed Senate Sept. 23, 1992. Conference report (H.Rept. 102- 1015) agreed to by House and Senate Oct. 5, 1992. Signed into law Oct. 6, 1992.

John D. Moteff

MLC-092

RESEARCH AND DEVELOPMENT FUNDING: FY1992

...Congress appropriated $74 billion in FY1992...

Congress appropriated about $74 billion in FY1992 for research and development (R&D), including R&D facilities, compared to the Administration's request of about $76 billion. The appropriation represents an increase of 9% or $6 billion more than the FY1991 level. Of the $6 billion increase, over $4.6 billion is for defense activities, raising the proposed spending for defense- related R&D to $39.2 billion, which is 53% of all Federal R&D efforts. The Administration's request for defense R&D totaled $40.1 billion. The Federal Government accounts for about 44% of the total U.S. investment in R&D, which in 1991 is estimated to be $152 billion. Industry, academia, and nonprofit organizations make up the remaining 56%.

The Administration's budget included a proposed 16% increase for the basic research programs of the National Science Foundation (NSF) and a continuing commitment to double the Foundation's budget between 1987 and 1994. The congressional appropriation for NSF was somewhat less, producing a 13.7 % increase in its basic research budget. The congressional appropriation for the National Institutes of Health (NIH) resulted in an increase of $733 million compared to an Administration request of an additional $497 million. This FY1992 appropriation will allow NIH to support 5,785 new research grants in FY1992 as requested by the Administration. For the Department of Energy (DOE), Congress appropriated $1.47 billion for the General Science program, including $483.7 million for the Superconducting Super Collider (SSC). These amounts were $77 million and $50 million respectively below the Administration's request. Most of that increase in the DOE General Sciences budget went to the SSC.

In other areas, Congress appropriated $7.76 billion for all R&D programs in DOE compared to a request of $7.33 billion by the Administration. This appropriation included a 31% increase in technology development for environmental cleanup associated with DOE's weapons facilities, which equalled the Administration's request. Congress increased funding for the Department of Agriculture's R&D programs by $53 million whereas the Administration had requested a $60 million reduction. For the National Aeronautics and Space Administration (NASA), Congress appropriated $6.4 billion compared to the request of $7.2 billion. However, Congress did appropriate the full request of $2.028 billion for the space station. As in the past, it appears that Congress is continuing to support the Administration's request for a number of large-scale, multi- year R&D projects (often referred to as "big science") like the SSC, the space station, and the Human Genome project.

Continuing a trend over the last several years, Congress provided strong support for the Nation's R&D effort, providing it with the largest increase of any category within discretionary portion of the Federal budget. For the second year in a row, however, total congressional appropriations fell below the Administration's request. Overall budget pressures seem to be acting to dampen what appears to very strong support for federally funded research and development. These pressures will very likely continue for the next few years at least.

(For further information, see CRS Issue Brief 91033, *Research and Development Funding: FY1992*, by John Moteff.)

LEGISLATION

P.L. 102-139, H.R. 2519

FY1992 VA-HUD-Independent Agencies Appropriations Act (includes NASA). Reported from House Appropriations Committee June 3, 1991 (H.Rept. 102-94). House agreed to freeze NASA funding at FY1992 levels June 6, 1991. Signed into law Oct. 28, 1991.

John Moteff

MLC-093

SCIENCE, ENGINEERING, AND MATHEMATICS EDUCATION

...threatened by possible shortages...

An important aspect of U.S. efforts to improve economic competitiveness is the existence of a capable scientific and technological workforce. Considerable concern has been expressed about the future ability of the U.S. science and engineering base, however, to generate the technological advances needed to maintain economic growth. At present, the U.S. technological position may be threatened by possible shortages of scientists and engineers, and perhaps even more importantly, of the broader technical workforce. Charges are being made that many students complete high school scientifically and technologically illiterate. Even those students pursuing nonscientific and nonmathematical specialties are likely to require basic knowledge of scientific and technological applications for effective participation in the workforce.

Several published reports have found that there appear to be important shortcomings in science and mathematics education and achievement of U.S. students. According to these reports, not only are U.S. students less well- educated than their predecessors, they are also less well-trained in science and mathematics than are their peers in other industrialized countries. The decreasing student enrollments in science courses, declining achievement test scores, continuing decline in the number of high quality science and mathematics teachers, and the problems existing in the curriculum area, as noted by these reports, have directed considerable attention to precollege science and math instruction.

The number of college-age people in the United States peaked in 1983 and is expected to decline for at least several years. Of those now attending college, fewer are seeking careers in science and related fields. Coupled with that, the percentage of college science graduates seeking Ph.D.s has also declined.

The underrepresentation of some minorities in science and engineering raises important concerns about both equal opportunity and the future capacity of the Nation to produce an adequate number of scientists and engineers for all purposes. Demographic data show a workforce increasingly composed of minorities, groups that have been historically underrepresented in the sciences. In recent decades large numbers of talented immigrants have enriched the U.S. science and technology community. At issue is whether, how, and which minority students can be encouraged to pursue degrees in science and engineering disciplines. (For further information, see CRS Issue Brief 92026, *Science, Engineering, and Mathematics Education*, by Christine M. Matthews.)

LEGISLATION

P.L. 102-325, S. 1150

Higher Education Amendments of 1992. Amends the Higher Education Act of 1965 to revise and authorize its various programs. Passed Senate, amended, Feb. 21, 1992. Passed House, amended, Mar. 26, 1992. (A similar measure, H.R. 3553, was laid on the table without objection). Conference report (H.Rept. 102- 630) filed June 29, 1992. Signed into law July 23, 1992.

P.L. 102-389, H.R. 5679
Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993. Makes appropriations for, among other things, the National Science Foundation. Passed House, amended, July 29, 1992. Passed Senate, amended, Sept. 9, 1992. Conference report filed in House (H.Rept. 102-902) Sept. 24, 1992. Senate agreed to House amendments to certain Senate amendments Sept. 25, 1992. Signed into law Oct. 6, 1992.

P.L. 102-476, S. 1146
Scientific and Advanced-Technology Bill of 1992. Establishes a national advanced technician training program, utilizing the resources of the Nation's 2- year associate-degree-granting colleges to expand the pool of skilled technicians in strategic advanced-technology fields, to increase the productivity of the Nation's industries, and to improve the competitiveness of the United States in international trade, and for other purposes. Passed Senate, amended, Oct. 2, 1992. Passed House Oct. 3, 1992. Signed into law Oct. 23, 1992.

P.L. 102-509, S. 2201
Commonwealth Scientists Immigration and Exchange Bill of 1992. Authorizes the admission to the United States of certain scientists of the Commonwealth of Independent States and the Baltic states as employment- based immigrants under the Immigration and Nationality Act, and for other purposes. Passed Senate, amended, May 20, 1992. Passed House, amended, Sept. 21, 1992. Signed into law Oct. 24, 1992.

H.R. 2936 (Price)
Technical Education and Training Act of 1991. Establishes programs at the National Science Foundation for the advancement of technical education and training in advanced-technology occupations, and for other purposes. Reported to House, amended, by House Committee on Science, Space, and Technology (H.Rept. 102-508) Apr. 30, 1992. Passed House, amended, Aug. 10, 1992. Received in Senate; referred to Committee on Labor and Human Resources Aug. 11, 1992.

H.R. 3215 (Brown)
Inter-American Scientific Cooperation Bill of 1992. Reinvigorates cooperation between the United States and Latin America in science and technology. Passed House, amended, Aug. 10, 1992. Passed Senate, amended, Oct. 7, 1992.

H.R. 3476 (Morella)
Commission on the Advancement of Women in the Science and Engineering Work Forces Act. Establishes a commission to study the barriers that women scientists encounter in their careers and to propose recommendations on ways to eliminate those barriers. Passed House, amended, Sept. 29, 1992. Received in Senate; referred to Committee on Commerce, Science and Transportation Sept. 29, 1992.

H.R. 4595 (Henry)
American Math and Science Student Support Act. Prohibits any institution of higher education, 2 years after enactment of this Act, from using Federal research and development (R&D) funds to pay nonimmigrant aliens to carry out such R&D activities, unless the institution submits to the granting agency a report including: (1) specified information on such nonimmigrant aliens; and (2) a certification that no qualified U.S. citizens or permanent resident aliens are available for such research employment, despite the institution's efforts to hire them. Introduced Mar. 26, 1992; referred to Committees on Education and Labor (Subcommittee on Postsecondary Education) and on Science, Space, and Technology (Subcommittee on Science). Subcommittee on Science held hearings Apr. 29, 1992.

H.R. 5230 (Brown)
American Industrial Quality and Training Act of 1992. Enhances U.S. competitiveness by strengthening the Nation's technology base, promoting investment in U.S. technology, enhancing the technology skills of American workers, and reorienting defense spending to support American competitiveness, and for other purposes. Introduced May 21, 1992; referred to Committees on Armed Services, on Banking, Finance, and Urban Affairs (Subcommittee on Economic Stabilization), on Education and Labor, on the Judiciary (Subcommittee on Economic and Commercial Law), on Science, Space, and Technology (Subcommittee on Technology and Competitiveness), and on Ways and Means. Referred to Subcommittee on Technology and Competitiveness May 28, 1992. Committee hearings held Aug. 5, 1992.

H.R. 5344 (Boucher)
Authorizes the National Science Foundation to foster and support the development and use of certain computer networks. Introduced June 9, 1992; referred to Committee on Science, Space, and Technology. Committee consideration and markup session held June 10, 1992. Reported to House by Committee on Science, Space, and Technology (H.Rept. 102-567) June 16, 1992. Passed House June 29, 1992. Received in Senate July 1, 1992. Referred to Committee on Labor and Human Resources July 2, 1992.

S. 2 (Kennedy)
National Academic Report Card Bill of 1991. Promotes the achievement of National Education Goals, to measure progress toward such goals, to develop national education standards and voluntary assessments in accordance with such standards, and to encourage the comprehensive improvement of America's neighborhood public schools to improve student achievement. Passed Senate, amended, Jan. 28, 1992. Called up by House by rule Aug. 12, 1992. Passed House, amended, Aug. 12, 1992. (A similar measure, H.R. 4323, was laid on the table without objection). House agreed to conference report (H.Rept. 102-916) by voice vote Sept. 30, 1992. Conference report considered in Senate Sept. 30, 1992.

S. 343 (Johnston)
Department of Energy High-Performance Computing Act of 1991. Directs the Secretary of Energy to establish: (1) a High-Performance Computing Program; (2) a management plan to carry it out; and (3) a national multigigabit-per-second network to be named the Federal High- Performance

Computer Network. The Secretary is directed also to promote education and research in high- performance computational science and related fields that are necessary in making the computing resources more accessible to graduate and undergraduate students, post-doctoral fellows, and the faculties from the Nation's educational institutions. Introduced Feb. 5, 1991; referred to Committee on Energy and Natural Resources (Subcommittee on Energy Research and Development). Hearings held Apr. 11, 1991. Reported to Committee on Energy and Human Resources, amended (S.Rept. 102-64), May 23, 1991. Measure indefinitely postponed in Senate Jan. 28, 1992.

S. 2566 (Johnston)

Department of Energy Laboratory Technology Partnership Bill of 1992. Establishes partnerships involving Department of Energy laboratories and educational institutions, industry, and other Federal agencies, for purpose of development and application of technologies critical to national security and scientific and technological competitiveness. Introduced Apr. 9, 1992; referred to Committee on Energy and Natural Resources. Committee consideration and markup session held May 13, 1992. Reported to Senate, amended, May 28, 1992. Referred to Committee on Governmental Affairs June 9, 1992. Passed Senate, amended, July 1, 1992. Referred to House Committees on Energy and Commerce (Subcommittees on Environment and on Energy) and on Science, Space, and Technology (Subcommittee on Technology and Competitiveness) July 15, 1992. Referred to Subcommittee on Energy and Power Aug. 7, 1992.

Christine M. Matthews

MLC-094

SPACE POLICY

...difficult tradeoffs...

Issues involving the U.S. space program encompass not only debates over funding for civilian and military activities, but also the environment, trade policy, technological competitiveness, international relationships, and biomedical research.

The National Aeronautics and Space Administration (NASA) conducts the most visible space activities. During the 102d Congress, debate arose over difficult tradeoffs that had to be made between support for NASA's space station program versus other NASA activities (especially space science), and among NASA, veterans, and housing programs (all in the same appropriations bill). How to balance funding within NASA and between NASA and other national priorities is expected to be just as contentious next year.

The Department of Defense's (DOD's) space activities inevitably will be affected by the changing world situation and cutbacks in defense spending, leading to debate over what U.S. military space assets are needed. The National Space Council and Congress have voiced interest in increasing the synergism, and reducing the overlap, between military and civilian space activities.

The proper role of the Government in facilitating commercial space businesses is also a subject of debate.

Interest has developed in ensuring that data from civilian and military weather and remote sensing/reconnaissance satellites are used to the maximum extent possible in solving environmental issues. Monitoring NASA's *Mission to Planet Earth* program of environmental satellites is an issue of continuing congressional concern.

Foreign competition in marketing launch vehicle services remains a significant issue. Trade talks are underway with the European Space Agency to establish "rules of the road" for pricing launch vehicle services. Charges have been levied that China is not abiding by a 1989 agreement on launch pricing, which may factor into U.S.-China trade discussions. Russia is pursuing efforts begun by the Soviet Union to market launch services, leading to policy debates over whether the United States should encourage or discourage Russia's entry into the market. Space launch vehicles are similar to ballistic missiles and therefore concerns also exist about the potential transfer of certain space technologies to countries intending to build missiles.

Debates over competitiveness often focus on the role of the Government in investing in research and development to spur new technologies. The space program is a major recipient of R&D funding, and Congress has instructed NASA, for example, to demonstrate a greater linkage between its R&D activities and development of critical technologies. International cooperation, as well as competition, is a hallmark of space activities and Congress is interested in how new cooperative relationships may be formed in the wake of the dissolution of the Soviet Union.

LEGISLATION

P.L. 102-389, H.R. 5679

FY1993 VA-HUD-Independent Agencies appropriations (including NASA). Reported to House by Committee on Appropriations July 23, 1992 (H.Rept. 102- 710); passed House July 29. Reported to Senate by Committee on Appropriations Aug. 3 (S.Rept. 102-356); passed Senate Sept. 9. Conference report file Sept. 24 (H.Rept. 102-902); passed House and Senate Sept. 25. Signed into law Oct. 6, 1992.

P.L. 102-396, H.R. 5504

Department of Defense FY1993 Appropriations bill. Reported to House by Committee on Appropriations June 29, 1992 (H.Rept. 102-627); passed House July 2. Reported to Senate (S.Rept. 102-408) Sept. 17; passed Senate Sept. 23. Conference report filed Oct. 5 (H.Rept. 102-1015); passed House and Senate Oct. 5. Signed into law Oct. 6, 1992.

P.L. 102-484, H.R. 5006

FY1993 National Defense Authorization Act. H.R. 5006 reported to House by Committee on Armed Services May 19, 1992 (H.Rept. 102-527); passed House June 5; received in Senate and referred to Committee on Armed Services June 12, 1992. S. 3114 reported to Senate by Committee on Armed Services July 31 (S.Rept. 102-352); passed Senate Sept. 18. Conference Report (H.Rept. 102-966) filed Oct. 1. Passed Senate Oct. 3; House Oct. 5. Signed into law Oct. 23, 1992.

P.L. 102-511, S. 2532

Freedom Support Act. Provides U.S. assistance to former Soviet republics. H.R. 4547 reported to House by Committee on Foreign Affairs June 16, with supplemental report filed July 22 (H.Rept. 102-569, Parts I and II); reported to House by Committee on Armed Services July 2 (H.Rept. 102-569, Part III); and by Committee on Agriculture July 2 (H.Rept. 102- 569, Part IV). Passed House Aug. 6. Includes language to ease technical discussions between NASA and Russia on space technology. S. 2532 reported to Senate by Committee on Foreign Relations June 2 (S.Rept. 102-292) including language prohibiting aid to Russia and other former republics if they violate the MTCR. Passed Senate July 2. Conference report (H.Rept. 102-964) filed Oct. 1. Passed Senate Oct. 1; passed House Oct. 3. Signed into law Oct. 24, 1992.

P.L. 102-555, H.R. 6133

National Land Remote-Sensing Policy Act of 1991. Amends the 1984 Landsat Act to provide for continuity of the Landsat system. H.R. 3614 reported to House by Committee on Science, Space, and Technology May 28 (H.Rept. 102-539); passed House June 9. S. 2297 reported from Senate Commerce, Science and Transportation Committee Sept. 30 (S.Rept. 102-445). Clean bill, H.R. 6133, introduced and passed House Oct. 5; passed Senate Oct. 7. Signed into law Oct. 28, 1992.

P.L. 102-588, H.R. 6135

FY1993 NASA Authorization Act. H.R. 4364 reported from House Committee on Science, Space, and Technology Apr. 22 (H. Rept. 102-500); passed House May 5. Amendment to terminate space station program defeated 159-254 Apr. 29. Reported from Senate Committee on Commerce, Science, and Transportation Aug. 10 (S.Rept. 102-364). Clean bill, H.R. 6135, introduced and passed House Oct. 5; passed Senate Oct. 7. Incorporates several provisions of H.R. 3848 (Commercial Space Competitiveness Act) and H.R. 3922 (Biomedical Research in Space Act). Signed into law Nov. 4, 1992.

Marcia S. Smith and David P. Radzanowski

MLC-095

SUPERCONDUCTING SUPER COLLIDER

...Congress votes to fund SSC...

The Reagan Administration proposed the construction, over an 8- to 9- year period, of the Superconducting Super Collider (SSC), which would be the world's largest and highest energy particle accelerator. In 1988 dollars, the project was estimated to cost about $4.4 billion and to have annual operating budgets (after 1996) of about $270 million. In current dollars, the cost was estimated by the Department of Energy (DOE) to be about $5.9 billion. In January 1991, DOE announced that the SSC's total cost will be $8.25 billion in "as-spent" dollars (inflated or "escalated" dollars stated in the value of the year spent). Other estimates are higher. In addition, some analysts have estimated that annual operating costs after construction is completed may be as much as $500 million per year.

The Department of Energy proposed to start construction of the SSC in FY1988. Although funds for R&D and other purposes have been appropriated since FY1988, Congress appropriated funds for construction for the first time in FY1990. The FY1991 appropriation was $242.9 million, including $93.9 million for construction. The FY1992 appropriation was $483.7 million, including $323.8 million for construction.

The FY1992 request was $650 million. On June 17, 1992, the House passed the FY1993 appropriations bill, including the Eckart amendment, which would have eliminated funding for the SSC except for $34 million to close down the project. On Aug. 3, 1992, the Senate passed the bill, including $550 million for the SSC, following rejection of the Bumpers amendment to eliminate SSC funding. The conference report (H.Rept. 102- 866), filed Sept. 15, 1992, included $517 million for the SSC, of which up to $370 million was for construction. This amount was included in P.L. 102-377, signed by the President on Oct. 2, 1992.

Major issues in the second session of the 102d Congress were whether Japan would accept a U.S. proposal to buy into the SSC project in return for a significant ($1-$2 billion) participation in its funding; what other nations would contribute; and whether there were management problems and cost overruns in the project.

The SSC is envisioned as the "next generation" high-energy particle accelerator, needed to expand the frontier of particle physics research beyond the capabilities of existing machines. Although many scientists, policy analysts, and policymakers support the project, not all do. A major concern is that other areas of science, particularly small science, would suf-

fer if such funding is allocated to a single, large project. In addition to its scientific benefits, the SSC's supporters suggest a number of related technical, economic, and social benefits. Not all agree, however, that such benefits would occur or that they would be significant compared to costs. Because high-energy physics is increasingly an international effort, international cooperation and competition also must be considered. This complex of factors makes the congressional evaluation of the relative merits of the SSC a difficult task.

The basic issues include the following: should the SSC be built, and if so, when -- that is, should it be delayed for a few years? For additional information, see CRS Report 90-178 SPR, *Superconducting Super Collider: Science, Costs, and Benefits*; CRS Report 91-308 SPR, *The Superconducting Super Collider Project in 1991: Revised Costs; Magnets; and Foreign Participation*; and CRS Issue Brief 87096, *Superconducting Super Collider: Current Issues and Legislation*, all by William C. Boesman.

LEGISLATION

P.L. 102-104, H.R. 2427

Energy and Water Development Appropriations Act, 1992. Requires that at least 10% of the Federal funding be used for minority participation in the SSC project (Section 304). Reported to House by Committee on Appropriations to the Committee of the Whole House May 22, 1991 (H.Rept. 102-75). The report recommends funding of $433.7 million, a $100 million reduction in the SSC budget request of $533.7 million. It notes, however, that this would be $190.8 million higher than the FY1991 appropriation. Passed House May 29, 1991. Referred to Senate Committee on Appropriations June 4, 1991. The Committee, in its June 12, 1991, report (S.Rept. 102- 80), recommended $508.7 million for the SSC, $75 million more than the House and $25 million less than the request. Passed Senate July 10, 1991. Conference report (H.Rept. 102-177) includes $483.7 million for the SSC, which is $50 million less than the Administration's request, but $240.8 million higher than the FY1991 appropriation. This amount includes $323.8 million for construction. Consideration of amendments in disagreement, which did not involve the SSC, occurred Aug. 1, 1991. Signed into law Aug. 17, 1991.

P.L. 102-377, H.R. 5373

Energy and Water Development Appropriations Act, 1993. As introduced June 16, 1992 (H.Rept. 102-555), appropriates $483.7 million for the SSC, which is $166 million less than the request, but the same as the FY1992 appropriation. The House, on June 17, 1992, passed the Eckart amendment to eliminate $450 million from the appropriation and to return only $34 million to close down the SSC project. Passed House June 17, 1992. Reported to Senate, amended, by Commmittee on Appropriations (S.Rept. 102-344) July 27, 1992. Senate report recommends $550 million for the SSC. Passed Senate Aug. 3, 1992, including $550 million for the SSC, following rejection of Bumpers amendment to eliminate SSC funding. The Senate passed another Bumpers amendment to prohibit the expenditure of Federal funds for the purchase of components for the SSC that are manufactured outside of the United States unless U.S. firms are allowed to compete for the contract. Conference report (H.Rept. 102-866), filed Sept. 15, 1992, included $517 million for the SSC, of which up to $370 million is for construction. Signed into law Oct. 2, 1992.

William C. Boesman

MLC-096

TECHNOLOGY, TRADE, AND COMPETITIVENESS

...Congress has taken an incremental approach...

Technological development is important to economic competitiveness and trade because it contributes to economic growth by increasing productivity and by providing new and improved products and processes to meet new and/or previously unmet needs. Technological advance facilitates the creation of new industries and new jobs. It expands the types and geographical distribution of services which can be offered. The application of technology to traditional manufacturing can also improve industrial competitiveness by reducing labor costs and making resources more productive.

The United States is facing greater competitive pressures despite increased resources devoted to technology development. Part of this may be explained by the large role the Federal Government plays in funding research and development and in providing markets for the results. This tends to divert some efforts away from commercial endeavors. In addition, the large domestic market has, in the past, made it less important for U.S. firms to meet the demands of an international marketplace. This lack of worldwide marketing experience has hampered the ability of many U.S. companies to compete on a global scale.

Legislative activity over the past decade has created a "policy" for technology development, albeit an ad hoc one that places major reliance on free market forces. Because of the lack of consensus on the scope and direction of a national policy, Congress has taken an incremental approach aimed at creating new mechanisms to facilitate technological advancement in particular areas and making changes and improvements as necessary. Among these legislative initiatives are increased R&D spending, use of Federal technology facilities and personnel, and cooperative activities between industries and between industries and universities. While it is perhaps too early to determine the effects of these efforts, significant problems remain in the commercialization and diffusion of products and processes.

The trade problems that the U.S. is currently experiencing may be a symptom of greater problems resulting from the slowdown of U.S. economic growth and productivity and from current fiscal policy. In debating competitiveness and trade issues, Congress may want to focus on the contribution of technology development to the long-term economic well being of the Nation and what, if any, is the Federal role in facilitating the advancement and application of technology. (For further information, see CRS Issue Briefs 87053, *Trade, Technology, and Competitiveness*, 91132, *Industrial Competitiveness and Technological Advancement: Debate over Government Policy*, and 92025, *Manufacturing, Technology, and Competitiveness*, by Wendy H. Schacht.)

LEGISLATION

P.L. 102-140, H.R. 2608

Department of Commerce, Justice, and Related Agencies Appropriations for FY1992. Provides appropriations for programs of the National Institute of Standards and Technology including $15.7 million for the Manufacturing Technology Transfer Centers, $48 million for the Advanced Technology Program, and $1.3 million for State Extension. Introduced June 11, 1991; referred to Committee on Appropriations. Reported (H.Rept. 102-106) June 11, 1991. Passed House, amended, June 13, 1991. Passed Senate, amended, July 31. Conference report agreed to in House and Senate Oct. 3, 1991. Signed into law Oct. 28, 1991.

P.L. 102-190, S. 1507/H.R. 2100

National Defense Authorization Act for FY1992 and FY1993. Title VIII includes those provisions of S. 1327, S. 1328, S. 1329, and S. 1330 relevant to DOD and the defense activities of DOE, including programs to develop dual-use technologies, monitor foreign technology activities, develop strategies for critical technologies, improve manufacturing technology, and augment management training. Introduced July 19, 1991; referred to Committee on Armed Services. Reported July 19, 1991 (S.Rept. 102-113). Passed Senate, with amendments, Aug. 2, 1991; incorporated into H.R. 2100. Conference report agreed to in House Nov. 18, 1991. Agreed to in Senate November 22. Signed into law Dec. 5, 1991.

P.L. 102-227, H.R. 3909

Tax Extension Act of 1991. Title I extends for 6 months the tax credit for increases in research activities, among other things. Introduced Nov. 25, 1991; referred to Committee on Ways and Means. Passed House Nov. 27, 1991. Received in Senate Nov. 27, 1991, and passed without amendment. Signed into law Dec. 11, 1991.

P.L. 102-245, H.R. 1989/S. 1034

American Technology Preeminence Act of 1991. Authorizes appropriations for the National Institute of Standards and Technology and the Technology Administration of the Department of Commerce, among other things. FY1992 and FY1993 authorizations include $25 million for Regional Manufacturing Technology Transfer Centers, $2.5 million for State Technology Extension, and $100 million for the Advanced Technology Program. Includes the Emerging Technologies and Advanced Technology Program Amendments Act of 1991 to strengthen the ATP and provide improved guidelines for allocations of funds to support projects from idea exploration to prototype development in long-term, high-risk areas of technology. Amends the Stevenson-Wydler Technology Innovation Act to provide for ongoing financial support. Requires several studies and reports. The House bill also establishes a National Commission on Reducing Capital Costs for Emerging Technology. H.R. 1989 introduced Apr. 23, 1991; referred to Committee on Science, Space, and Technology. Ordered reported, amended, May 1, 1991. Passed House, amended, July 16. Received in Senate July 17 and referred to Committee on Commerce, Science, and Transportation. S. 1034 introduced May 9, 1991; referred to Committee on Commerce, Science, and Transportation. Hearings held June 19, 1991. Ordered reported with an amendment in the nature of a substitute July 30, 1991. Passed Senate, amended, Nov. 27, 1991. House agreed to Senate amendment Jan. 28, 1992. Signed into law Feb. 14, 1992.

P.L. 102-395, H.R. 5678

Department of Commerce, Justice, and Related Agencies Appropriations for FY1993. Provides appropriations for programs of the National Institute of Standards and Technology including $16.9 million for the Manufacturing Technology Transfer Centers, $67.9 million for the Advanced Technology Program, and $1.3 million for State Extension. Conference report (H.Rept. 102-918) agreed to in House and Senate Oct. 1, 1992. Signed into law Oct. 6, 1992.

P.L. 102-396, H.R. 5504

Department of Defense Appropriations for FY1993. Makes appropriations for the Department of Defense for the fiscal year ending Sept.30, 1992, and for other purposes. Includes $297,067,000 for MANTECH, $213,775,000 for DARPA's manufacturing activities, and $100 million for SEMATECH. Also funds programs in manufacturing education and extension, cooperative R&D in critical and dual-use technologies, supports regional technology alliances, and dual-use technology assistance, and commercial- military technology development efforts, among other things. Conference report (H.Rept. 102-1015) agreed to in House and Senate Oct. 5, 1992. Signed into law Oct. 6, 1992.

P.L. 102-484, H.R. 5006/S. 3114

Department of Defense Authorization Act for 1993. Authorizes appropriatons for the military functions of the Department of Defense, indlucing funding levels for manufacturing and technology development programs. Created several new activities in dual-use and critical technology development as well as programs to facilitate cooperative work and technical assistance in these areas. Conference report (H.Rept 102- 966) agreed to in House Oct. 3 and in Senate Oct. 5, 1992. Signed into law Oct. 23, 1992.

P.L. 102-564, H.R. 4400/S. 2941

Small Business Innovation Development Amendment Act of 1992. Amends the Small Business Innovation Development Act of 1982 to extend the Small Business Innovation

Research program from October 1993 to October 2000; to increase the set-aside used to fund the SBIR program to 2.5% of the relevant agency's R&D budget (phased in); to create a pilot program for transferring technology to small firms funded by an additional set-aside of 0.15% of the agency's R&D budget; and for other purposes. H.R. 4400 passed House, amended, Aug. 11, 1992. S. 2941 passed Senate, amended, Oct. 3, 1992. Called up in House under suspension of rules; passed House Oct. 6, 1992. Signed into law Oct. 28, 1992.

H.R. 11 (Rostenkowski)

Enterprise Zone Tax Act. Among other things, this bill would have extended the research and experimentation tax credit. Introduced Jan. 3, 1991; referred to the Committee on Ways and Means. Passed House, amended, July 2, 1992. Received in Senate and referred to Committee on Finance July 21. Passed Senate, amended, Sept. 29, 1992. Conference report (H.Rept. 102-1034) agreed to in House Oct. 6, and in Senate Oct. 8, 1992. Vetoed by the President Nov. 5, 1992.

Wendy H. Schacht

SOCIAL SERVICES

MLC-097

CHILD ABUSE

...five Federal programs reauthorized...

Social services for children and families at-risk include a broad range of activities. These include, among others, investigating reports of child abuse and neglect; providing substitute care, and preventive and supportive services for children; providing shelter for victims of family violence; and providing adoption support for children if family reunification is not appropriate.

During the 102d Congress, five Acts that provide specific social services to children and families were reauthorized. The Abandoned Infants Assistance Act was reauthorized on Dec. 12, 1991 (P.L. 102-236). Legislation was signed into law on May 28, 1992 reauthorizing the other four Acts. The Child Abuse, Domestic Violence, Adoption, and Family Services Act of 1992 (P.L. 102-295) extends through FY1995 and amends: the Child Abuse Prevention and Treatment Act, which mandates child abuse and neglect reporting systems; the Adoption Opportunities Act; the Family Violence Prevention and Services Act; and the Temporary Child Care for Children with Disabilities and Crisis Nurseries Act.

P.L. 102-295 makes major amendments to the Child Abuse and Family Violence Acts. New amendments to the Child Abuse Act reflect Congress' concern with increased reports of abuse and State agencies' reported inability to handle the increasing number of children and families needing their services. Congress has also become more interested in the varied needs of women and children who are victims of domestic violence, thus amendments to the Family Violence Act include more programs to address this issue.

Under the Child Abuse Act, P.L. 102-295 requires States, for the first time, to target their general State grant monies at improving their child protective service systems. The new law also emphasizes community based child abuse prevention efforts and requires the U.S. Advisory Board on Child Abuse and Neglect to study the issue of child maltreatment fatalities. The Family Violence Act was expanded and changed from a demonstration program to a service delivery program. Amendments increase the amount and type of support services to victims; establish new programs to educate the public about family violence; and provide incentives to States to increase their prevention efforts.

For FY1992, the above five Acts received a total appropriation of $116 million. The amendments increase the authorizations of appropriations for FY1992 to a total of $354 million for all five Acts. Such sums as may be necessary are authorized for FY1993 for most of the Acts. The five Acts received an appropriation of approximately $124 million for FY1993.

In addition to the above legislation, more than 20 other bills were introduced addressing specific issues within child abuse, family violence, adoption, respite care, and abandoned infants. The 102d Congress also addressed the child welfare system in general, and both the House and Senate passed major child welfare and foster care reform legislation (H.R. 3603, S. 4). The major Federal programs supporting child welfare services and foster care are permanently authorized (for further information, see CRS Issue Brief 90145, *Child Welfare and Foster Care Reform: Issues for Congress*, by Karen Spar and CRS Archived Issue Brief 91027, *Child Abuse Act and Related Programs: Reauthorization Issues*, by Dale H. Robinson.)

LEGISLATION

P.L. 102-236, S. 1532/H.R. 2722

Abandoned Infants Assistance Act Amendment of 1991. Amends and extends the Abandoned Infants Assistance Act through FY1995. Authorizes new comprehensive service centers for children and their natural, foster and adoptive families to help ameliorate conditions that can lead to abandonment. Introduced July 23, 1991; referred to Committee on Labor and Human Resources. Reported Sept. 25, 1991 (S.Rept. 102-161). Passed the Senate Oct. 29, 1991. H.R. 2720 introduced June 20, 1991; referred to Committees on Educa-

tion and Labor and Energy and Commerce. Amended and reported by Committee on Education and Labor Sept. 19, 1991 (H.Rept. 102- 209, part I). Reported by the Committee on Energy and Commerce Nov. 7, 1991 (H.Rept. 102-209, part II). House amended and passed S. 1532, in lieu of H.R. 2722 Nov. 19, 1991. Senate agreed to House amendments Nov. 26, 1991. Signed into law Dec. 12, 1991.

P.L. 102-295, S. 838

The Child Abuse, Domestic Violence, Adoption and Family Services Act of 1992. Amends and extends through FY1995: the Child Abuse Prevention and Treatment Act; the Family Violence Act; the Adoption Opportunities Act; and the Temporary Child Care for Children with Disabilities Act. Authorizes a total of $329 million for these Acts for FY1992. Introduced Apr. 17, 1991; referred to Committee on Labor and Human Resources. Reported on Sept. 27, 1991 (S.Rept. 102-164). Amended and passed by the Senate on Nov. 7, 1991. Passed by the House on Apr. 7, 1992 with a substitute amendment (H.R. 4712). Amended version passed the Senate by voice vote Apr. 9, 1992. S.Con.Res. 116 introduced and passed by Senate on May 7 and May 13 by House, authorizing corrections in enrollment of S. 838. S. 838 signed into law May 28, 1992.

P.L. 102-586, H.R. 5194/S. 2792

Juvenile Justice and Delinquency Prevention Act of 1992. Amends and extends the Juvenile Justice Act through FY1996, and establishes a new program of children's advocacy centers among other amendments. H.R. 5194 introduced May 18, 1992; referred to Committee on Education and Labor. S. 2792 introduced May 21, 1992; referred to Committee on Judiciary. H.R. 5194 ordered reported July 29, 1992 (H.Rept. 102-756). House amended and passed H.R. 5194 on Aug. 3, 1992. Senate passed H.R. 5194 with a substitute amendment (S. 2792) on Sept. 25, 1992. Amended version amended and agreed to by House on Oct. 2, 1992, and subsequent version passed by the Senate on Oct. 7, 1992. Signed into law Nov. 4, 1992.

H.R. 3603 (Downey)

Provides respite care for foster parents of special needs children; provides funding to assess and improve State court systems; allows abandoned infants to be eligible for foster care and adoption assistance without having to document their AFDC eligibility. Modified version of the Family Preservation Act, originally introduced as H.R. 2571, and approved by the Subcommittee on Human Resources. Clean bill introduced Oct. 22, 1991; referred to the Committee on Ways and Means. Reported July 22, 1992 (H.Rept. 102-684). Passed House, Aug. 6, 1992. Included in House-Senate conference on H.R. 11. Conference agreement (H.Rept. 102-1034 passed by the House Oct. 6, and by the Senate Oct. 8, 1992.

H.R. 4585 (Schroeder)/S. 1966 (Biden)

National Child Protection Act. Establishes national background check procedures for child care providers and initiate the reporting of all State and Federal child abuse crimes to a national criminal background check center, among other provisions. S. 1966 introduced Nov. 14, 1991; referred to the Committee on Judiciary. H.R. 4585 introduced Mar. 25, 1992; referred to the Committee on Judiciary. S. 3990 (similar to S. 1966) introduced and passed by the Senate Oct. 8, 1992.

H.R. 4712 (Owens)

Child Abuse Programs, Adoption Opportunities, and Family Violence Prevention Amendments Act of 1992. Would amend and extend through FY1995 the Child Abuse, Family Violence, Adoption Opportunities, and Temporary Child Care Acts. Introduced Mar. 31, 1992; referred to the Committee on Education and Labor. Called up under suspension of the rules, amended and passed by the House on Apr. 7, 1992. For further information see S. 838.

H.R. 4729 (Cramer)/S. 2509 (Nickles)

National Children's Advocacy Program Act. Would establish facility- based programs to increase the resources available to child abuse victims and their families. Would require multidisciplinary team of professionals to address individual cases. Both bills introduced Apr. 1, 1992. H.R. 4729 referred to Committee on Education and Labor; S. 2509 referred to Committee on Labor and Human Resources. For more information see H.R. 5194.

Dale H. Robinson

MLC-098

CHILD WELFARE

...child welfare system in a state of crisis?...

The child welfare system is considered by some to be in a state of crisis. Despite enacting major child welfare reform in 1980, Congress again has considered an overhaul of the Federal programs that support child welfare activities at the State and local level.

Child welfare services include activities designed to protect children in at-risk situations. These can include investigation of abuse and neglect reports, preventive and supportive services, removal of children from home if necessary for their protection, financial support for children in foster care, services to reunite children with their natural families if possible, and adoption assistance or other permanency planning services for children if family reunification is not feasible.

Child welfare services are provided through State, local, and private agencies, with support from Federal programs, State, local, and private funding sources. The primary Federal programs are authorized by Title IV-B(child welfare services) and IV-E (foster care and adoption assistance) of the Social Security Act. In addition, the Social Services Block Grant under Title XX of the Social Security Act provides significant financial assistance. The Federal Government supports an estimated 40% of the total costs of the child welfare system.

More than 10 years after enactment of P.L. 96-272, the child welfare system is seen as collapsing under pressure from various societal problems. Most children enter foster care because they have been abused or neglected. In recent years the reporting of child maltreatment and the number of children entering foster care have increased sharply. An estimated 407,000 children were in foster care at the end of 1990, up from 280,000 at the end of 1986. Recently, a preoccupying concern has been with drug abuse, particularly since the introduction of crack cocaine in the mid-1980s. Drug abuse and AIDS also are associated with the phenomenon of "boarder babies" who are abandoned at birth and require foster care. In addition, the increasing presence of women in the workforce has reduced the number of traditional families, which had been considered the ideal foster family type.

Just before adjourning, the 102d Congress passed legislation to address the current problems in child welfare (H.R. 11) However, the President pocket vetoed the bill, effective Nov. 5, 1992. This legislation would have changed the structure of the existing Federal programs that finance preventive child welfare services through a limited authorization, and foster care through an open-ended entitlement. The bill would have attempted to provide greater resources for family preservation and preventive services, and both place special emphasis on the problem of substance abuse. Numerous foster care and adoption assistance amendments also were included in the bill.

The child welfare provisions were passed as one component of H.R. 11. The House originally passed the child welfare bill as H.R. 3603; the version passed by the Senate was originally introduced as S. 4 and subsequently incorporated into H.R. 11. (For further information, see CRS Issue Brief 90145, *Child Welfare and Foster Care Reform*, by Karen Spar.)

LEGISLATION

P.L. 102-236, S. 1532

Abandoned Infants Assistance Act Amendments. Extends authorization through FY1995 and authorizes new comprehensive treatment centers for infants and young children and their natural, foster and adoptive families. Introduced July 23, 1991; referred to Committee on Labor and Human Resources. Ordered reported on July 31, 1991 (S.Rept. 102-161). Passed Senate, Oct. 29, 1991. Amended and passed by the House, in lieu of H.R. 2722, on Nov. 19, 1991. House amendment passed by the Senate on Nov. 26, 1991, with a further amendment. Passed by the House on Nov. 27, 1991, and signed into law on Dec. 12, 1991.

P.L. 102-295, S. 838

Child Abuse, Domestic Violence, Adoption and Family Services Act. Reauthorizes and revises the Child Abuse Prevention and Treatment Act and related Acts through FY1994. Introduced Apr. 17, 1991; referred to Committee on Labor and Human Resources. Ordered reported July 31, 1991. Report filed Sept. 27, 1991 (S.Rept. 102-164). Passed Senate, Nov. 7, 1991. Modified version passed by House on Apr. 7, 1992 (See H.R. 4712).

H.R. 2571 (Downey)

Family Preservation Act. Amends Titles IV-B and IV-E of the Social Security Act to expand availability of child welfare services to strengthen and preserve families, and improve foster care and adoption assistance. Introduced June 6, 1991; referred to Committee on Ways and Means. Marked up and approved by Human Resources Subcommittee on Sept. 24, 1991; see H.R. 3603 for further action.

H.R. 2720 (Owens of New York)

Child Abuse Programs, Adoption Opportunities and Family Violence Prevention Extension Act. Extends for one year the authorization of appropriations for the Child Abuse Prevention and Treatment, Adoption Opportunities, and Family Violence Prevention and Services Acts. Introduced June 20, 1991; referred to Committee on Education and Labor. Ordered reported on June 25, 1991; passed by the House on July 9, 1991.

H.R. 3603 (Downey)

Modified version of the Family Preservation Act, originally introduced as H.R. 2571, as approved by Subcommittee on Human Resources. Clean bill introduced Oct. 22, 1991; referred to Committee on Ways and Means. Reported July 22, 1992 (H.Rept. 102-684). Passed House, Aug. 6, 1992. Included in House-Senate conference on H.R. 11. Conference agreement (H.Rept. 102-1034 passed by the House Oct. 6, and by the Senate Oct. 8, 1992.

H.R. 4712 (Owens of New York)

Child Abuse Programs, Adoption Opportunities and Family Violence Prevention Amendments. Revised version of H.R. 2720. Passed House on Apr. 7, 1992 (under Senate bill number S. 838).

H.R. 5600 (Downey)

The Children's Initiative. Contains provisions of H.R. 3603, as reported by the Ways and Means Committee, which includes a 10% millionaire income surtax, and provisions of the Mickey Leland Childhood Hunger Act. Introduced on July 9, 1992; referred to Committees on Ways and Means and Agriculture.

S. 4 (Bentsen)

Child Welfare and Preventive Services Act. Amends Title IV of the Social Security Act to establish innovative child welfare and family support services, improve foster care, and promote comprehensive substance abuse programs for pregnant women and parents. Introduced Jan. 14, 1991; referred to Committee on Finance. Incorporated into the Revenue Act of 1992, H.R. 11, which was ordered reported by the Senate Finance Committee July 29, 1992.

Karen Spar

MLC-099

JOB TRAINING AMENDMENTS

...major amendments enacted...

Enacted in 1982, the Job Training Partnership Act (JTPA) is the Nation's primary employment and training program for disadvantaged adults and youth. JTPA, which is permanently authorized, is based on four principles that distinguish it from its immediate predecessor, the Comprehensive Employment and Training Act (CETA). These four principles are 1) States and localities, rather than the Federal Government, have the primary responsibility for administering the program; 2) the private sector has a key role in program planning and monitoring; 3) program funds are an investment in human capital with emphasis placed on performance measures; and 4) the program emphasizes training for unsubsidized jobs -- not public service employment.

During 1986, Congress made minor changes to JTPA and, in 1988, it completely revamped JTPA's program for dislocated workers. In 1989 and 1990, Congress for the first time considered major amendments to the Act's programs for disadvantaged youth and adults, but adjourned without taking final action. These amendments were enacted during the 102d Congress (P.L. 102-367).

The new amendments address a variety of issues, including the structure of services to youth, the extent to which services are targeted on very disadvantaged groups, the quality of services, allocation formulas, State set- asides, coordination with related programs, and use of funds for support services and administrative costs. The amendments have two overall goals: 1) to improve the quality of services and increase the extent to which they are targeted to very disadvantaged individuals; and 2) to prevent waste, fraud, and abuse by assuring JTPA's fiscal accountability.

The new law will require local programs to assess participants' skills and service needs, to develop individual service plans, and to provide basic education or occupational skills training. The amendments also will require a substantial proportion of participants to have at least one barrier to employment in addition to being economically disadvantaged. The new law also will establish new fiscal control requirements for States.

A controversial issue has been whether to either allow or require States to establish a State Human Resource Investment Council to advise Governors on the coordination of programs related to employment and training. The new law will allow States to establish a Council, except that programs authorized under the Perkins Vocational and Applied Technology Act could be included under the Council only with the approval of the State vocation education council.

For FY1992, $4,707.6 million was appropriated for programs authorized by JTPA, including a $500 million emergency supplemental appropriation for JTPA's summer youth program. For FY1993, Congress has appropriated $4,158.2 billion for activities under JTPA (P.L. 102-394). For more information, see CRS Issue Brief 91117, *Job Training Partnership Act: Legislation and Budget Issues*, by Ann Lordeman and Karen Spar.

LEGISLATION

P.L. 102-170, H.R. 3839

FY1992 Appropriations for Departments of Labor, Health and Human Services, and Education. Includes $4.2 billion for JTPA programs. Passed House and Senate Nov. 22, 1991. Signed into law Nov. 26, 1991. (Has same appropriations level as H.R. 2077)

P.L. 102-235, H.R. 906/S. 367

Nontraditional Employment for Women Act. Amends JTPA to add program requirements relating to the training, placing, and retaining of women in nontraditional employment. H.R. 906 introduced Feb. 6, 1991; referred to Committee on Education and Labor. S. 367 introduced Feb. 6, 1991; referred to Committee on Labor and Human Resources and reported May 24, 1991 (S.Rept. 102- 65). Passed Senate Nov. 26, 1991. Passed House (in lieu of H.R. 906) Nov. 27, 1991. Signed into law Dec. 12, 1991.

P.L. 102-302, H.R. 5132

Dire Emergency Supplemental Appropriation Act, 1992, for Disaster Assistance to Meet Urgent Needs Because of Calamities Such As Those Which Occurred in Los Angeles and Chicago. Includes $500 million for JTPA's summer youth program for the summer of 1992. Reported by House Appropriations Committee on May 12 (H.Rept. 102-518). Reported by Senate Appropriations Committee on May 19, 1992 (No written report.) Passed House and Senate June 18, 1992. Signed into law June, 22 1992.

P.L. 102-367, H.R. 3033

Job Training Reform Amendments. Amends JTPA to restructure Title II-A as services for adults; Title II-B as summer youth program; and Title II-C as services for youth. Authorizes a new Youth Opportunities Unlimited Program, a new microenterprise grants program, and new program of disaster relief employment assistance. Introduced July, 25,- 1991; referred to Committee on Education and Labor. Reported by Committee Oct. 7, 1991 (H.Rept.102-240). Passed House Oct. 9, 1991 (420-6). Conference Committee met July 29, 1992. Conference report (H.Rept. 102-811) agreed to by Senate and House on August 7 and 11, respectively. Signed into law Sept. 7, 1992

P.L. 102-394, H.R. 5677

FY1993 Appropriations for Departments of Labor, Health and Human Services, and Education. Reported by House Appropriations Committee on July 23,1992 (H.Rept. 102-708). Passed House July 28, 1992. Reported by Senate Committee on Appropriations on Sept. 10, 1992 (S.Rept. 102-

397). Passed Senate Sept. 18, 1992. Conference agreement (H.rept. 102-974) passed House and Senate Oct. 3, 1992. Signed into law Oct. 6, 1992

H.R. 2707 (Natcher)

FY1992 Appropriations for Departments of Labor, Health and Human Services, and Education. Reported by House Appropriations Committee on June 20,1991 (H.Rept. 102-104). Passed House June 26, 1991. Reported by Senate Appropriations Committee on July 11, 1991. (S.Rept. 102-104). Passed Senate Sept. 12, 1991. Conference Report (H.Rept. 102-282) adopted by House on Nov. 6, 1991 and by Senate on Nov. 7, 1991. Vetoed Nov. 19, 1991.

S. 2055 (Simon)

Job Training and Basic Skills Act of 1991. Amends JTPA to restructure Title II-A as services for adults; Title II-B as summer youth program; and Title II-C as services for youth. Authorizes a new Fair Chance Youth Opportunities Unlimited Program and activities for the replication of successful JTPA programs activities for the replication of successful programs. Introduced Nov. 26, 1991; referred to Committee on Labor and Human Resources. Reported by full Committee Mar 25, 1992 (S.Rept. 102-264). Passed by Senate Apr. 9. 1992. Incorporated in H.R. 3033 as an amendment.

Ann Lordeman

MLC-100

OLDER AMERICANS ACT

...FY1993 appropriations are $1.4 billion...

The Older Americans Act, the Nation's major program for the organization and delivery of supportive and nutrition services for the elderly, was reviewed for reauthorization during the 102d Congress. On Sept. 30, 1992, the President signed into law P.L. 102-375 (H.R. 2967/S. 3008) reauthorizing the program through FY1995. Authorization of appropriations expired on Sept. 30, 1991; however, funding was continued under FY1992 appropriations legislation. FY1993 appropriations total $1.4 billion, slightly less than the FY1992 level.

Bills to reauthorize the Older Americans Act were introduced and approved by the House Committee on Education and Labor (H.R. 2967) and the Senate Committee on Labor and Human Resources in 1991 (S. 243). However, final action on reauthorization in 1991 was stalled due to the addition of proposals to eliminate or liberalize the social security earnings test. When the Senate reauthorization proposal (S. 243) was considered on Nov. 12, 1991, a floor amendment by Senator McCain to eliminate the earnings test was adopted. On Apr. 9, 1992, when the House passed a compromise version of the reauthorization legislation approved by the Committee on Education and Labor and the Committee on Labor and Human Resources, it also adopted a proposal by Representative Rostenkowski to liberalize the earnings test. On July 22, 1992, S. 3008 was introduced; it contained the same Older Americans Act provisions as H.R. 2967 approved by the House on April 9. However, it did not contain an earnings test amendment. S. 3008 was approved by the Senate on Sept. 15, 1992 and H.R. 2967 was passed by the House on September 22, clearing the measure for the President. (For further information on the Social Security earnings test, see IB89114.)

P.L. 102-375 makes changes in the largest program under the Act --Title III -- which authorizes supportive, nutrition, and other social services. Among other things, it strengthens provisions relating to targeting of Title III services on special population groups, including a requirement that each State's intrastate funding formula take into account the distribution of older persons with greatest economic and social need. The law also includes a requirement that the Commissioner on Aging approve each State's formula.

P.L. 102-375 consolidates and expands under a new Title VII, certain programs previously authorized under Title III that focus on protection of the rights of older persons. Title VII incorporates separate authorizations of appropriations for the long-term care ombudsman program; program for prevention of elder, abuse, neglect, and exploitation; elder rights and legal assistance program; and outreach, counseling, and assistance for insurance and public benefit programs.

Other amendments increase U.S. Department of Agriculture (USDA) reimbursement for meals; limit transfer of funds between Title III services; authorize programs for assistance to caregivers of the frail elderly and for multigenerational activities and meals to older volunteers in schools; clarify the role of Title III agencies in working with the for- profit sector; and require improvements in Administration on Aging (AOA) data collection. P.L. 102-375 does not make any change in the current policy that allows service providers to solicit voluntary contributions toward the cost of services received by older persons. For more information, see CRS Issue Brief 91002, *Older Americans Act: 1991 Reauthorization and FY1992 Budget Issues*, by Carol O'Shaughnessy.

LEGISLATION

P.L. 102-375, H.R. 2967/S. 3008

Older Americans Act Amendments of 1991. H.R. 2967 introduced July 23, 1991; referred to Committee on Education and Labor; reported by Committee on Education and Labor on Sept. 11, 1991; and passed by the House on Sept. 12, 1991. S. 243 introduced Jan. 23, 1991; referred to Committee on Labor and Human Resources; reported by Com-

mittee on Labor and Human Resources on Sept. 13, 1991. Passed by the Senate on Nov. 12, 1991 with a floor amendment to repeal the earnings test for persons who have attained full retirement age. A compromise version of Older Americans Act provisions in H.R. 2967/S. 243 was approved by the House on Apr. 9, 1992, with a floor amendment to liberalize the earnings test. In later action, S. 3008 was introduced on July 22, 1992, was placed on the Senate calendar on July 23, and contained the same Older Americans Act provisions approved in the compromise version passed by the House on Apr. 9, 1992, but without an amendment to the social security earnings test. H.R. 2967/S. 3008 received final approval by the Senate on Sept. 15, 1992, and by the House on Sept. 22, 1992. Among other things, reauthorizes the Older Americans Act for four years through FY1995. Signed by the President Sept. 30, 1992.

H.R. 2780 (Roybal)
National Older Americans Advocacy and Protection Amendments of 1991. Among other provisions, amends Title III ombudsman program requirements to require more timely response to complaints; to expand authority of ombudsmen to advocate on behalf of residents; and to strengthen conflict of interest prohibitions. Introduced June 26, 1991; referred to Committees on Education and Labor and on Ways and Means. Provisions similar to those contained in this bill were incorporated into the compromise version of H.R. 2967/S. 3008 (introduced Jan. 23, 1991 as S. 243).

S. 973 (Adams)
School-based Meals for Older Individuals and Intergenerational Programs Act of 1990. Authorizes Title III funds to provide congregate nutrition services and intergenerational activities in elementary and secondary schools. Introduced Apr. 25, 1991; referred to Committee on Labor and Human Resources. Provisions of this bill were incorporated into P.L. 102-375.

S. 1471 (Adams)
Vulnerable Elders' Rights Protection Amendments of 1991. Among other things, consolidates and expands in a new Title VII of the Older Americans Act programs that protect the rights of the vulnerable elderly. Introduced July 11, 1991; referred to the Committee on Labor and Human Resources; incorporated into S. 243 as reported by Committee on Labor and Human Resources and passed by the Senate. Essentially the same provisions with some modifications are contained in P.L. 102-375.

Carol O'Shaughnessy

MLC-101

REHABILITATION ACT REAUTHORIZATION

...reauthorization of Rehabilitation Act...

The Rehabilitation Act authorizes vocational rehabilitation and related services to enable individuals with handicaps to become employable and to live independently.

Congress has passed H.R. 5482, reauthorizing the Rehabilitation Act for 5 years. The bill was signed into law Oct. 29, 1992 (P.L. 102-569). It includes numerous provisions designed to support implementation of the Americans with Disabilities Act, such as increased consumer empowerment and expanded eligibility to allow increased numbers of persons to prepare for independent living and employment. For example, the bill establishes a new policy under which all individuals with disabilities, including those with the most severe disabilities, would generally be presumed to have the potential to engage in employment. (Current law restricts eligibility for vocational rehabilitation services to persons determined to have employment potential.) This approach extends eligibility to many persons currently not accepted into the vocational rehabilitation program. Under the bill's approach it is assumed that increased use of supportive services and technological devices will be instrumental in allowing many persons with very severe disabilities to engage in employment and live independently.

For FY1993, Congress approved $2.1 billion for programs authorized under the Rehabilitation Act, a 4.0% increase over the amount available for FY1992.

The Rehabilitation Act was originally authorized in 1920 as a means of returning injured workers to their jobs. Amendments in 1973 gave priority to persons with severe handicaps, defined in part as persons who need multiple services over an extended period of time. The emphasis on services to persons with severe handicaps, and the fact that funding did not keep pace with inflation between FY1975 and FY1990, resulted in a 33% decline in the total number of persons successfully rehabilitated over this period. However, the percentage of persons rehabilitated with severe handicaps doubled. In FY1991, approximately 215,000 persons were rehabilitated.

The Rehabilitation Act is seen by leaders of the disability community as a major program under which persons with handicaps can be prepared to take advantage of the opportunities potentially available to them under the Americans with Disabilities Act. That is, the Rehabilitation Act authorizes vocational rehabilitation services to help make persons eligible for employment, provides training to assist persons with community living, and includes technological devices to assist with

mobility and communication. However, these services are limited by appropriations and there is no individual entitlement to services.

At a reauthorization hearing, the GAO reported that States were not fully implementing a procedure required to assure priority services to persons with severe handicaps. On the other hand, GAO also reported concern among States regarding the lack of services to eligible persons with handicaps that are not severe. On another issue, GAO data on the long-term outcomes for persons rehabilitated indicated that only half had earnings in each of the 4 years following rehabilitation.

For further information, see CRS Issue Brief 92031, *Rehabilitation Act Reauthorization and Funding*, by Mary F. Smith.

LEGISLATION

P.L. 102-569, H.R. 5482/S. 3065
Rehabilitation Act Amendments of 1992. H.R. 5482 ordered reported by Committee on Education and Labor on July 8, 1992. Passed House Aug. 10, 1992. S. 3056 ordered reported by Committee on Labor and Human Resources on July 29, 1992. Passed Senate Oct. 5, 1992. Conference report (H.Rept. 102-973) passed House Oct. 2; passed Senate Oct. 5, 1992. Signed into law Oct. 29, 1992.

H.R. 5677 (Natcher)
Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriation Bill, 1993. Passed House on July 28, 1992.

Mary F. Smith

TAXATION

MLC-102

CURRENT TAX PROPOSALS

...no tax legislation enacted...

The House, on July 2, and the Senate, on September 29, passed the Revenue Act of 1992 (H.R. 11), a measure that created tax incentives for investment in enterprise zones, expanded the deductibility of individual retirement account (IRA) contributions, extended many expiring tax provisions, and repealed the 10% luxury tax on boats, airplanes, furs, and jewelry. President Bush, however, citing his opposition to certain provisions in the bill and the fact that it contained various tax increases, pocket vetoed H.R. 11, effective Nov. 5, 1992.

(For more information on this subject, see CRS Issue Brief 92004.)

LEGISLATION

H.R. 11 (Rostenkowski)
Revenue Act of 1992. As passed by the House, provides for 50 zones (25 rural, 25 urban) to be designated between 1993-96. Zones will receive $2.5 billion in tax incentives including a 50% tax exclusion for individuals on capital gains and deferral of capital gains taxes if reinvested in a zone business, a 15% employer wage credit, deduction of equity investments in some businesses, ordinary loss treatment of EZ stock losses, increased expensing of depreciable property in firt year of business, and greater latitude for States in using tax-exempt bonds to make loans to EZ businesses. As marked up by Senate, number of zones reduced to 25, and capital gains exclusin eliminated. The employer wage credit is increased to 40% and any business hiring a zone resident is eligible for the Targeted Jobs Tax Credit. Includes accelerated depreciation schedules for zone business property and expanding use of low- income housing credit. Introduced Jan. 3, 1991; referred to Committee on Ways and Means. Reported June 30, 1992 (H.Rept. 102-631). Passed House, amended, July 2. Reported by Senate Committee on Finance, amended, Aug. 3, 1992. Passed Senate, amended, September 29. Conference report (H.Rept. 102-1034) filed October 5. Pocket vetoed, effective Nov. 5, 1992.

H.R. 4210 (Gephardt)
Tax Fairness and Economic Growth Acceleration Act of 1992. Amends the Internal Revenue Code to provide various tax incentives to increase economic growth and provide tax relief for families. Introduced Feb. 11, 1992; referred to Committee on Ways and Means. Reported February 27 (H.Rept. 102-432). Passed House, amended, February 27. Reported by Senate Committee on Finance March 6. Passed Senate, amended, March 13. Conference report (H.Rept. 102-461) filed March 20. Vetoed by the President, Mar. 20, 1992. Failed of passage in House over veto, 211-215.

Gregg A. Esenwein

MLC-103

EXPIRING TAX PROVISIONS

...H.R. 11 vetoed...

One of the most prominent and persistent tax questions that Congress faced in 1992 was the fate of 12 temporary income tax provisions that were scheduled to expire on June 30. For each provision, the question posed to policymakers was whether to let the expiration stand or not. Each of the so-called "extenders" is, of course, unique, and each provision poses a separate set of issues. At a general level, however, all but a few of the extenders present similar questions: most of the

extenders are revenue- losing tax benefits that favor particular activities or investments. In each case, is the activity the provision promotes beneficial enough to warrant Government support and the resulting diversion of resources from other uses? And under the pay-as-you-go rule in the 1990 budget agreement, revenue-losing tax measures must be matched by either revenue increases or spending reductions elsewhere. Thus, another question is whether the extenders are important enough to merit other tax increases or spending cuts.

The extenders were not enacted at the same time; most originated in one of the various major tax bills enacted during the late 1970s and early to mid- 1980s. For example, three of the temporary provisions were first enacted in 1978, two were enacted in 1981, and two were enacted in 1986. But while their origins are diffuse, the 12 provisions have increasingly been considered as a single group. For example, the Tax Extension Act of 1991 was devoted exclusively to the extenders and the revenue-raising measures designed to offset their revenue loss. Indeed, it might be argued that an issue with the extenders is the very act of considering them as a single group. Such consideration may disguise some of the strengths and weaknesses specific to individual provisions.

Most of the extenders have now expired, at least temporarily; under the terms of the Tax Extension Act of 1991, the measures lapsed at the end of June 1992. Early in 1992, however, President Bush proposed a relatively broad tax plan that included an extension of some of the expiring provisions and permanent status for others. The tax plan that was ultimately passed by Congress in March 1992 likewise made some of the provisions permanent and extended others. However, President Bush vetoed the bill (H.R. 4210) for reasons not directly related to the extenders.

H.R. 4210 contained language that strongly urged the U.S. Treasury to extend one of the temporary provisions -- an abrogation of rules governing the allocation of research expenses -- by administrative action. On June 24, 1992, the Treasury Department issued Revenue Procedure 92-56, which extended the abrogation through 1993. Later in the year Congress again considered the rest of the extenders in the context of more general tax legislation. In October Congress approved -- and the President signed --the Comprehensive National Energy Policy Act, which made the temporary business energy tax credit permanent. In October Congress also approved the Revenue Act of 1992 (H.R. 11), a tax package that addressed the fate of the remaining extenders along with tax-favored enterprise zones, provisions designed to promote economic growth, tax simplification, and certain other provisions. The bill made several of the extenders permanent and extended other of the temporary provisions for 12 months. President Bush, however, vetoed the bill.

The 12 income tax extenders are: the research and experimentation tax credit, the allocation of research expenses, the minimum tax treatment of gifts of appreciated property, the exclusion of employer-provided educational assistance, the exclusion for group legal services, the deduction for health insurance costs of self-employed persons, the tax exemption for qualified mortgage bonds, the tax exemption for qualified small-issue manufacturing bonds, the targeted jobs tax credit, the business energy tax credit, the orphan drug tax credit, and the low-income housing credit.

(For more information on this subject, see CRS Issue Brief 92119.)

LEGISLATION

P.L. 102-227, H.R. 3909

Contains provisions to amend the Internal Revenue Code of 1986 to extend certain expiring tax provisions, and for other purposes. Both measures introduced Nov. 25, 1991; referred, respectively, to Committee on Ways and Means and Committee on Finance. H.R. 3909 passed House and Senate November 27. Signed into law Dec. 11, 1991.

H.R. 11 (Rostenkowski)

Revenue Act of 1992. Contains provisions related to extension of temporary tax code provisions. Introduced Jan. 3, 1991; referred to Committee on Ways and Means. Reported June 30, 1992 (H.Rept. 102-631). Passed House, amended, July 2. Reported by Senate Committee on Finance, Aug. 3, 1992. Passed Senate, amended, September 29. Conference report (H.Rept. 102-1034) filed October 5. Pocket vetoed, effective Nov. 5, 1992.

H.R. 4210 (Gephardt)

Tax Fairness and Economic Growth Act of 1992. Amends the Internal Revenue Code to provide various tax incentives to increase economic growth and provide tax relief for families. Introduced Feb. 11, 1992; referred to Committee on Ways and Means. Reported February 14 (H.Rept. 102-432). Passed House, amended, Feb. 27, 1992. Reported, amended, by Senate Committee on Finance March 6. Passed Senate, amended, Mar. 13, 1992. Vetoed by the President Mar. 20, 1992.

David J. Brumbaugh

TRADE AND INTERNATIONAL FINANCE

MLC-104

FOREIGN DIRECT INVESTMENT IN THE UNITED STATES

...concern over issue intensifying...

Foreign investment in U.S. assets increased sharply in the 1980s, intensifying congressional and public concerns over the impact of foreign investment on the U.S. economy. Most economists believe that foreign direct investment, or foreign investment in U.S. businesses and real estate (instead of portfolio investment, or investment in corporate stocks and bonds and Treasury securities), is having a small, but positive net effect on the U.S. economy and most State governments are actively pursuing foreign investors. Such investors, however, have become harder to find. Compared with the large inflows of foreign direct investment in the 1980s, foreign direct investment has fallen off noticeably since 1989. The U.S. economic recession, combined with economic slowdown and other economic problems abroad, have made foreign investors less able and, in some instances, less willing, to buy assets in the United States. As long as the U.S. economy continues to grow at a slow pace, however, the reduced availability of foreign capital is unlikely to place a serious constraint on U.S. corporate investment plans.

Presently, the United States places few restrictions on foreign direct investment. This policy has provided a favorable investment climate in the United States for foreign investment. It also has promoted globally a philosophy that favors the free international flow of capital and equal treatment under the law of all enterprises, domestic and foreign. Where restrictions exist, they generally involve preventing public services or services with an impact on national security from falling under foreign control.

As foreign direct investment in the United States has ratcheted downward from the high annual increases that occurred during much of the 1980s, public concerns have lessened. Nevertheless, some analysts still believe that the United States has become too dependent on foreign capital and that foreigners' acquisitions give them leverage to influence political decisions. More troubling for some observers is the practice they believe foreigners are following of targeting U.S. high technology companies for acquisition that will weaken the U.S. defense and high technology bases. With the end of the Cold War, these and other observers believe that economics, particularly international economic competitiveness, has supplanted military might as the most important element in determining a nation's international stature. Accordingly, these observers view the acquisition of U.S. high technology companies as a debilitating blow to the U.S. economy because it weakens the industrial and manufacturing bases, thereby retarding the ability of the economy to compete successfully in the future.

These issues have focused public and congressional attention on the impact of foreign investment on the structure of the U.S. economy, employment, and economic policy. The 100th Congress passed the Exon-Florio provision, which grants the President the power to block foreign direct investments that he determines could impair U.S. national security. Dissatisfaction with the way this provision has been interpreted by two successive administrations spurred legislative proposals in the 102d Congress that would have prohibited foreigners from acquiring businesses that operate in U.S. national parks and other specific businesses, primarily those involved in advanced technologies. Other proposals recast the Exon-Florio process to focus more directly on "national economic security," or on the domestic economic impact of foreign direct investment.

LEGISLATION

P.L. 102-99, H.R. 991

Extends the expiration date of the Defense Production Act to Sept. 30, 1991. Exempts the Exon-Florio provision from expiration of the DPA. Introduced Feb. 20, 1991; referred to Committee on Banking, Finance, and Urban Affairs. Passed House as amended Mar. 6, 1991. Passed Senate Mar. 7, 1991. Senate adopted the language of S. 468 in lieu of the language in the House version of H.R. 991. House and Senate agreed to conference report Aug. 2, 1991. Signed into law Aug. 19, 1991.

H.R. 429 (Thomas, C.)

Reclamation Projects Authorization and Adjustment Act of 1991. Prohibits Federal project water from being delivered to a U.S. corporation that has any foreign beneficial ownership. Introduced Jan. 3, 1991; referred to various Committees. Passed House, amended (360 - 24), June 20, 1991. Referred in Senate to Committee on Energy and Natural Resources. Reported, amended, Mar. 31, 1992 (H.Rept. 102-267). Passed Senate, amended, April 10.

S. 3 (Boren)

Senate Election Ethics Act of 1991. Prohibits a foreign national from controlling, influencing, or participating in election-related activities, including making contributions or expenditures relating to any political election or the administration of a political committee. Introduced Jan. 14, 1991; referred to Committee on Rules and Administration. Reported Apr. 11, 1991 (H.Rept. 102-37). Passed Senate, amended, May 23, 1991. Passed House Nov. 25, 1991; House struck all after the enacting clause and inserted in its place H.R. 3750.

Conference report (H.Rept. 102-479) filed Apr. 3, 1992. Conference report (H.Rept. 102-487) filed April 8. Vetoed by President May 9, 1992.

S. 347 (Riegle)/ H.R. 3039 (Carper)

Defense Production Act Amendments of 1991. Revises and reauthorizes the Defense Production Act of 1950. States that the President has an array of authorities to shape defense preparedness programs and to take appropriate steps to maintain and enhance the defense industrial and technological base. Expresses certain congressional findings disapproving the growing U.S. dependence on foreign sources for critical components and materials used to manufacture major weapons systems for our national defense. Requires the President to provide for the establishment of an information system on the domestic defense industrial base which includes a systematic and continuously- updated procedure to collect and analyze information necessary to evaluate: (1) the adequacy of domestic industrial capacity and capability in critical components, technologies, and technology items essential to national security; (2) dependence on foreign sources for industrial parts, components, and technologies essential to defense production; and (3) the reliability of foreign source supply of critical components and technologies. States that it is imperative for the United States to preserve and strengthen its industrial and technological capabilities. S. 347 introduced Feb. 5, 1991; passed Senate, amended, by voice vote Feb. 21, 1991. On Oct. 10, 1991, the House struck all after the enacting clause and inserted in lieu thereof the provisions of a similar measure H.R. 3039 and passed House, amended, by voice vote. Conference report (H.Rept. 102-1028) filed Oct. 5, 1992. Cleared for White House October 8. H.R. 3039 introduced July 25, 1991; referred to more than one committee. Reported, amended, Sept. 18, 1991 (H.Rept. 102-208, Part I) by Committee on Banking, Finance and Urban Affairs. Reported, amended, by Committee on Armed Services Sept. 25, 1991 (H.Rept. 102-208, Part II). Passed House, amended, Oct. 2, 1991.

S. 479 (Leahy)

National Cooperative Research Act Extension of 1991. Amends the National Cooperative Research Act of 1984 to include a joint production venture within the scope of such Act as an activity that shall not be deemed illegal per se under the antitrust laws, subject to specified conditions. Introduced Feb. 22, 1991; referred to Committee on Judiciary. Reported, amended, Sept. 11, 1991 (S.Rept. 102-146). Passed Senate, amended, Feb. 27, 1992.

James Jackson

MLC-105

IMF QUOTA INCREASE

...new directions for IMF?...

The International Monetary Fund (IMF) was founded in 1945 as a permanent international organization whose task was to manage the postwar international monetary system. Since then its role has evolved considerably, but it remains a key element of the international financial system.

Under its Articles of Agreement the IMF must review the level of its quota subscriptions or capital every 5 years to determine whether they are adequate for the anticipated financing needs of its members. The Ninth General Review of Quotas was completed on June 28, 1990. A 50% increase, from approximately SDR90.1 billion (about US $129.8 billion as of Oct. 8, 1992) to SDR135.2 billion (about US $194.8 billion), was recommended. The U.S. quota share would increase by about $12.0 billion, from approximately SDR17.9 billion (about US $25.8 billion) to a proposed SDR26.5 billion (about US $38.2 billion). Under Section 5 of the Bretton Woods Agreement Act of 1945 (P.L. 79-171, 22 USC 286), U.S. participation in any IMF quota increase must be approved by the U.S. Congress.

Congressional examination of U.S. participation in the quota increase is focusing attention on the role of the IMF as it faces the international financial challenges of the 1990s. The IMF's involvement in the economic transformation of the constituent republics of the former Soviet Union and Eastern Europe is likely to be the preeminent issue facing the IMF in the 1990s. The recent approval of membership for the former Soviet republics raises the possibility that their, most likely, substantial financial needs may well strain the IMF's existing lending capacity. Proposed currency stabilization funds for the former Soviet republics would also be funded through the IMF's General Arrangements to Borrow (GAB), medium-term credit lines that the IMF maintains with eleven industrial countries.

The IMF's newly emerging role in Eastern Europe and the former Soviet republics confronts the IMF's nearly total immersion in lending to Third World countries, suggesting an important adjustment by both the IMF and the majority of its members. The IMF's concentration in lending to the Third World grew out of its central role in the international debt strategy, particularly under the Brady Plan. Its activities in the Third World are likely to be closely examined as an indicator of its potential performance in the newly emerging market economies.

Arrears developed as a result of some countries' inability to repay the IMF have threatened the revolving character of the Fund and led to a proposed Third Amendment of the IMF's Articles of Agreement. The proposed Third Amendment, which essentially suspends the rights of countries in arrears within the IMF, was also considered by the 102d Congress as part of the request for approval of U.S. participation in the quota increase. Another newly emerged issue is the IMF's policies regarding the environment.

IMF surveillance procedures and the IMF's relationship to management of the international exchange rate system by the major industrial countries is a recurrent issue. The nature of IMF conditionality is also a perennial issue. Finally, there are a number of recurrent issues regarding the costs and benefits of IMF membership.

(For more information on this subject, see CRS Issue Brief 91059.)

LEGISLATION

P.L. 102-511, S. 2532

Amends the Bretton Woods Agreements Act to endorse consent to: (1) an increase in the U.S. quota of the International Monetary Fund and to the amendments to the Articles of Agreement of the Fund approved in resolution number 45-3; and (2) a pledge to sell gold to restore the resources of the Reserve Account of the Enhanced Structural Adjustment Facility Trust. Supports U.S. participation in a currency stabilization fund for the independent states. Introduced Apr. 7, 1992; referred to Committee on Foreign Relations. Hearings held Apr. 9, 1992. Reported (S.Rept. 102- 292), amended, June 2, 1992. Passed Senate, amended, July 2, 1992. House struck all after enacting clause of S. 2532 and inserted in lieu provisions of H.R. 4547. Passed House, amended, Aug. 6, 1992. Conference Report filed in House (H.Rept. 102-964) October 1. Senate agreed to Conference Report October 1. House agreed to Conference Report October 3. Signed into law Oct. 24, 1992.

H.R. 4547 (Fascell)

Amends the Foreign Assistance Act of 1961 to provide for assistance to the former Soviet republics. Introduced Mar. 24, 1992: referred to more than one committee. Marked up and ordered reported draft legislation Mar. 11, 1992. Committee consideration and markup session held June 10, 1992. Reported, amended, June 16, 1992 (H.Rept. 102-569, Part I) by Committee on Foreign Affairs. Reported, amended, July 2, 1992 (H.Rept. 102-569, Part IV) by Committee on Agriculture. Reported, amended, July 2 by Committee on Armed Services (H.Rept. 102-569, Part III). Passed House, amended by substituting the text of H.R. 5750, Aug. 6, 1992.

Patricia A. Wertman

MLC-106

TRADE

...trade focus of attention...

During its second session, the attention of the 102d Congress was more closely focused on trade and related issues. Many Members, mirroring the concerns of their constituents over the effects of import penetration in some key sectors and over foreign unfair trade practices, considered legislation to alter U.S. trade policy.

During 1992, Congress debated, and acted on, legislation covering a broad range of trade policy measures.

Congress considered, but did not pass, an extension of "Super 301," an expired provision of the Omnibus Trade and Competitiveness Act of 1988, and other measures to combat perceived unfair trade practices of Japan and other trading partners.

The United States completed negotiations with Mexico and Canada on a free trade arrangement that will require congressional approval to go into effect. The Bush Administration has also proposed an Enterprise for the Americas Initiative to bolster Latin American economies and strengthen ties with its neighbors to the south.

The outcome of the Uruguay Round of the General Agreement on Tariffs and Trade (GATT) remained a question mark. Any agreement will require congressional action.

U.S.-Japanese trade frictions once again increased as the U.S. deficit with Japan started to rise after 2 years of decline and as import-sensitive sectors, such as autos and auto parts, lost shares of the domestic market to Japanese producers. Along with Super 301 reauthorization, some Members considered other legislative proposals to redress what they consider to be an unfair imbalance in trade with Japan.

The former Communist countries of East and Central Europe and the successor states to the former Soviet Union continued to struggle to build market economies. Congress considered measures, such as new export control authorization, to liberalize trade with these countries.

China's growing trade surplus with the United States, its human rights record, and widespread restrictions on foreign imports, came under congressional scrutiny. A number of Members questioned Administration trade policy towards China.

Congress considered several legislative proposals to expand Government programs to promote U.S. exports. Bills were introduced, and passed, to extend the charter of the U.S. Export-Import Bank (a Government agency that facilitates export financing of U.S.

goods and services abroad) and to extend the Bank's Tied Aid Credit Fund to help U.S. firms compete against foreign government-subsidized financing in overseas markets. The Overseas Private Investment Corporation (OPIC), a U.S. Government corporation that encourages and assists U.S. private investment in less developed nations, was reauthorized.

(For more information on this subject, see CRS Issue Brief 92058.)

LEGISLATION

H.R. 2212 (Pelosi)
Contains provisions tieing renewal of China's MFN status in 1992 to that country's progress in meeting certain conditions involving broad human rights, fair trade, weapons proliferation, and foreign policy concerns. Introduced May 2, 1991; referred to Committee on Ways and Means. Reported, amended, July 9 (H.Rept. 102-141). Passed House, amended, July 10. Senate struck all after enacting clause and substituted language of S. 1367, amended. Passed Senate in lieu of S. 1367, amended. House agreed to Conference report (H.Rept. 102-392) Nov. 26, 1991; Senate agreed to report Feb. 25, 1992. Vetoed by President Bush Mar. 2, 1992.

H.R. 4996 (Gejdenson)
Amends the Foreign Assistance Act of 1961 to revise provisions concerning the Overseas Private Investment Corporation and to redesignate the Trade and Development Program as the Trade and Development Agency. Introduced Apr. 28, 1992; referred to Committee on Foreign Affairs. Reported, amended, June 5 (H.Rept. 102-551). Passed House, amended, Aug. 5, 1992.

H.R. 5100 (Rostenkowski)
Trade Expansion Act of 1992. Omnibus trade bill covering a wide range of issues. Includes provisions pertaining to market access for various U.S. exports, limits on imports of Japanese autos, domestic content requirements, modifications to U.S. antidumping and countervailing laws, imposition of import sanctions to control nuclear proliferation, and a variety of miscellaneous tariff and nontariff measures. (No comparable bill has yet been introduced in the Senate.) Also contains provisions designed to respond to alleged unfair foreign trade practices in order to boost U.S. exports, including: a 5-year extension of Super 301; mandatory Section 301 investigations on market access for U.S. rice exports to Japan, South Korea, and Taiwan; a mandatory Section 301 investigation of Japanese trade practices in autos and auto parts; revisions to Special 301 dealing with alleged violations of U.S. intellectual property rights; and new procedures for reviewing foreign compliance with bilateral trade agreements. H.R. 5100 contains provisions dealing with such issues as machine tool imports, eligibility for the Generalized System of Preferences (GSP) for the former Soviet Union, and various tariff revisions. An amendment to the bill, approved by the House July 8, 1992, directs the United States Trade Representative (USTR) to negotiate an auto trade agreement with Japan to limit Japanese auto exports to the United States and to require that autos made by Japanese transplants in the United States have 70% U.S. content by 1994. Provision requires the USTR to impose trade sanctions if Japan is found to violate its commitments. Reported by Committee on Ways and Means June 23, 1992. Passed House, amended, July 8, 1992.

H.R. 5318 (Pease)
United States-China Act of 1992. Contains provisions tieing renewal of China's MFN status to 1993 to that country's meeting certain conditions. Introduced June 3, 1992; referred to Committees on Rules, and Ways and Means. Passed House, amended, July 21, 1992. Reported by Senate Committee on Finance Aug. 5, 1992.

H.R. 5739 (Oakar), S. 2864 (Sarbanes)
Export Enhancement Act of 1992. Reauthorizes the Export-Import Bank Act of 1945. H.R. 5739 introduced July 31, 1992; referred to Committee on Banking, Finance and Urban Affairs. Passed House Aug. 4, 1992. S. 2864 introduced introduced June 17, 1992; referred to Committee on Banking, Housing, and Urban Affairs. Reported, amended, July 15 (S.Rept. 102-320).

H.Res. 101 (Dorgan)/S.Res. 78 (Hollings)
A resolution disapproving the extension of "fast-track" procedures to bills to implement trade agreements entered into after May 31, 1991. H.Res. 101 introduced Mar. 6, 1991; referred to Committee on Rules and Committee on Ways and Means. Ordered to be reported without recommendation by Committee on Rules May 14, report filed May 15 (H.Rept. 102-63, Part I). Ordered to be reported unfavorably by Committee on Ways and Means May 14, report filed May 16 (H.Rept. 102-63, Part II). Failed in the House May 23, 1991. S.Res. 78 introduced Mar. 13, 1991; referred to Committee on Finance. Ordered to be reported unfavorably and report filed (S.Rept. 102- 56) May 14. Disagreed to in the Senate May 24, 1991.

H.Res. 146 (Gephardt)
A resolution expressing the sense of the House of Representatives with respect to the U.S. objectives that should be achieved in the negotiations of future trade agreements. Introduced May 9, 1991; referred to Committees on Rules, Ways and Means. Ordered reported without recommendation by Committee on Rules May 14, report filed May 15, 1991 (H.Rept. 102-64, Part I). Ordered reported favorably with amendments by Committee on Ways and Means May 14, report filed May 16 (H.Rept. 102-64, Part II). Agreed to in the House May 23, 1991.

William Cooper and Lenore Sek

TRANSPORTATION

MLC-107

SURFACE TRANSPORTATION PROGRAM REAUTHORIZATION

...landmark highway, mass transit bill enacted...

The Highway Trust Fund is the principal means through which the Federal Government lends its financial support to the building, rebuilding and upkeep of streets, roads, and highways in the United States. Additional assistance for urban mass transit systems is provided from the Trust Fund's mass transportation account.

The Intermodal Surface Transportation Infrastructure Act of 1991 (P.L. 102- 240, H.R. 2950) was signed into law on Dec. 18, 1991. The measure is, in summary, a 6-year, $151 billion spending measure containing eight titles, which will give State and local governments far more leeway in determining how the money is spent than they have had in the past, and which increases mass transit funding by at least 100%. While not calling for an immediate increase in Federal highway taxes, it has a similar effect in that it extends through 1999 the 2 1/2 cents of last year's 5-cent gas tax increase that goes to the Highway Trust Fund. It had been set to expire at the end of the 1995 fiscal year. The 2 1/2 cents of that 5-cent fuel tax increase going into the General Fund, also slated to expire in 1995, will not be affected by this bill.

Participating in the Conference Committee on the measure were nine committees and 92 Members of Congress. The House cleared the measure by a vote of 372 to 47, and the Senate by 79 to 8. It is not an exaggeration to say that the bill contains sweeping changes in the Federal approach to highway and transit needs compared to those of the last 35 years -- since the 1956 startup of the Interstate System. In fact, Senator Moynihan, one of the measure's principal architects, calls it "...the first transportation legislation of the post-Interstate era."

(For more information on this subject, see CRS Issue Brief 90032).

LEGISLATION

P.L. 102-240, H.R. 2950

Intermodal Surface Transportation Infrastructure Act of 1991. Authorizes appropriations from the Highway Trust Fund for a State flexible program, a National Highway System, urban and rural mobility systems, Indian reservation roads, Federal Highway Administration safety programs, and other specified programs. Sets forth requirements with respect to State highway safety programs and commercial motor vehicle safety enforcement. Establishes within the U.S. Department of Transportation an Office of Intermodalism. Establishes a National Commission on Intermodal Transportation. Introduced July 18, 1991; referred to more than one committee. Reported, amended, by Committee on Public Works and Transportation July 26 (H.Rept. 102-171, Part I). Reported, amended, by Committee on Ways and Means August 2 (H.Rept. 102-171, Part II). Passed House, amended, Oct. 23, 1991. Senate struck all after enacting clause and substituted language of S. 1204, amended. Passed Senate in lieu of S. 1204, amended. Conference held. Senate and House agreed to conference report (H.Rept. 102-404) November 27. Signed into law Dec. 18, 1991.

Kenneth DeJarnette

URBAN AND REGIONAL DEVELOPMENT

MLC-108

COMMUNITY DEVELOPMENT

...major urban aid bill vetoed...

Two key trends in community development are an incremental decline in overall Federal funding and a growing reliance on the Community Development Block Grant (CDBG) program as the primary source of such assistance. The Administration has requested deeper cuts than Congress has approved, and overall funding has been trending downward, with the exception of the CDBG program.

The President's FY1993 budget proposed 19.1% less than the amount appropriated in FY1992 for all community and regional development activities (budget function 450), excluding disaster relief. It also proposed 14.8% less funding for the CDBG program, the largest source of Federal support for community and regional development activities.

Congress in recent years has authorized more funds than requested by the Administration, but overall appropriations for budget function 450 have declined or remained stagnant. For instance, Congress approved FY1992 appropriations for budget function 450, excluding disaster relief, that exceeded the amount recommended by the Bush Administration by $2.224 billion (29.5%). The Administration's budget recommendations for FY1992 would have reduced overall funding by 31.5% below the FY1991 level. Despite this increase above the amount requested by the Administration, overall funding for community and re-

gional development declined by 2.8% between 1991 and 1992. For FY1993, Congress approved appropriations that exceeded the amounted requested by the Administration by 16.4%. The Administration requested an overall appropriation of $6.099 billion, which is 19.1% less than appropriated in FY1992. Congress again approved a higher level of appropriation than requested but 5.8% less than the amount appropriated in FY1992.

The Administration's proposed reduction in community and regional development funding would have been achieved by eliminating, consolidating, or reducing funding for a number of programs. During the first session of the 102d Congress, the Administration's FY1992 budget recommended reduced funding for the CDBG program; repeal of Section 108 CDBG loan guarantee authority and Economic Development Administration (EDA) assistance programs; and rescission of FY1991 appropriations for a number of programs, including the Section 810 urban homesteading, the Rental Rehabilitation Grants, and Section 312 rehabilitation loan programs. The proposed rescissions, if approved, would have been used to partially fund two new housing programs, HOPE and HOME, authorized by the National Affordable Housing Act of 1990. The proposed rescissions were rejected by the House and Senate during consideration of the Dire Emergency Supplemental Appropriations Act of FY1991. During consideration of FY1992 and FY1993 appropriations, Congress rejected Administration recommendations that would have terminated EDA assistance and Section 108 loan guarantees and that would have reduced funding for the CDBG program.

The combination of decreased funding for budget function 450 programs overall and increased congressional funding for the CDBG program results in a growing reliance on the CDBG program as the primary source of such assistance. In FY1993, CDBG represents 56% of the amount appropriated for budget function 450, excluding disaster relief. In FY1992, the CDBG program represented 45% of the $7.535 billion appropriated; in FY1991, it was 41% of the $7.8 billion appropriated; and in FY1990, CDBG accounted for 36% of the $8.1 billion appropriated.

In addition to funding issues, during October 1991 the Employment and Housing Subcommittee of the House Government Operations Committee held an oversight hearing on the misuse of CDBG funds. The Subcommittee Chairman called for greater monitoring by the Department of Housing and Urban Development (HUD) of the use of funds by program recipients and stronger sanctions against communities that misuse funds.

Congress passed legislation that extended and amended a number of programs including the CDBG program. P.L. 102-550, reauthorizing several housing and community development programs administered by HUD, makes several significant changes in the economic development provisions governing the CDBG program. It requires HUD to promulgate formal guidelines for CDBG-sponsored economic development activities. The guidelines are intended to assist communities in evaluating and selecting economic development projects, but are not mandatory. It also makes microenterprises an eligible CDBG activity; extends CDBG eligibility for direct homeownership assistance; retains a provision that requires communities to develop and submit to HUD a nonhousing CD plan; permits States administering the CDBG small cities program to designate, without HUD approval, groups of small communities that may act as consortia for the purpose of receiving CDBG funds; and authorizes special purpose grants to small nonentitlement communities facing a military base closing.

In the aftermath of the Los Angeles riot, the Administration endorsed -- and in October 1992 Congress passed -- enterprise zone legislation (H.R. 11) that would have provided tax incentives to businesses locating in 50 designated areas characterized as economically distressed. The bill included a number of other provisions intended to aid the Nation's cities, including permanent extension of mortgage revenue bonds, target job tax credits, and low-income housing tax credits. President Bush pocket vetoed the bill Nov. 5, 1992, stating that it contained numerous tax increases, violated fiscal discipline, and would have destroyed jobs and undermined small businesses.

(For further information, see CRS Issue Brief 91067.)

LEGISLATION

P.L. 102-389, H.R. 5679

Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act for FY1993. Conference report (H.Rept. 102-902) passed House and Senate September 25. Signed into law Oct. 6, 1992.

P.L. 102-550, H.R. 5334

Housing and Community Development Act of 1992. Introduced June 5, 1992; referred to Committee on Banking, Finance, and Urban Affairs. Reported to House, amended (H.Rept. 102-760), July 30. Passed House, amended, August 5. Passed Senate, with text of S. 3031 inserted, September 10. Conference report (H.Rept. 102-1017) passed House October 5 and Senate October 8. Signed into law Oct. 28, 1992.

H.R. 11 (Rostenkowski)

Enterprise Zone Tax Incentives Act of 1991. Amends the Internal Revenue Code of 1986 to provide tax incentives for the establishment of enterprise zones and for other purposes. Introduced Jan. 3, 1991; referred to Committee on Ways and

Means. Reported to House (H.Rept. 102-631), amended, June 30, 1992. Passed House, amended, July 2. Reported (no written report), amended, by Senate Finance Committee August 3. Passed Senate, amended, September 29. Conference report (H.Rept. 102-1034) agreed to in House October 6 and in Senate Oct. 8, 1992. Pocket vetoed Nov. 5, 1992.

Eugene Boyd

MLC-109

FEDERAL ENTERPRISE ZONES

...H.R. 11 vetoed...

An enterprise zone (EZ) is a geographic area designated to receive special treatment, often tax reductions, by local, State, and/or Federal governments in order to attract business investment that might otherwise not occur there. The Federal program, created in 1987 legislation but not administratively enacted, lacks a tax credit or other incentive. Debate in the 102d Congress focused on the merits of adding tax and other incentive provisions.

Congress grappled with the EZ issue as it relates to a broader public policy response to the problems of urban America. The Administration's proposal, released June 3, 1992, would have allowed all communities that meet the eligibility criteria to qualify as Federal EZs. Specific incentives included elimination of capital gains taxes for EZ business as well as a number of other tax breaks. In a departure from other EZ proposals, the Administration included a $2.5 billion "Weed and Seed" grant package to address education, crime, health care, job training, housing, and community development problems, 80% of which was to be allocated to EZs. The House responded quickly by passing a compromise version with many similar features on July 2, 1992. Among the major differences was reducing the number of zones to 50 and allowing only a 50% capital gain tax exclusion.

The Senate Finance Committee marked up H.R. 11 on July 29. It reduced the number of zones to 25 (amended later to 125), deleted the capital gains exclusion and in place offered a 40% employer wage credit for hiring EZ residents; expanded Target Job Tax Credits to any business that hires an EZ resident; and provided accelerated depreciation schedules for EZ business property. The markup had some provisions common to both the Administration and House proposals, including the increased expensing allowance, individual stock expensing, and broadened use of tax-exempt financing to help finance EZ firms, but no Weed and Seed grants.

The compromise version agreed to in conference allowed for 50 EZs and a 50% capital gains tax exclusion among other incentives. It only narrowly passed the House (208-202) and was filibustered in the Senate before being adopted (67- 22) largely because of concern over miscellaneous tax increases that accompanied other tax decreases. Despite Congress's dropping the tax revenue provisions that most bothered the Administration, President Bush pocket vetoed the measure, effective Nov. 5, 1992.

Many questions remain regarding the efficacy and cost of EZs. Supporters have suggested that State EZs have already proven to be cost effective ways to attract business investment and create jobs. State directors have insisted that EZs are successful in focusing attention on distressed areas and that they may act as a catalyst for other economic and community development efforts in both the public and private sectors. Some States point to quantitative evidence of increased employment owing to EZ programs. The social benefits of revitalizing distressed areas may also argue in favor of some Federal effort, regardless of its ability to recover associated costs fully. Federal legislation proposed during the 102d Congress was viewed as an important addition to existing incentives provided by State and local governments in many areas. Together, theoretically, these various incentives were intended to promote conditions favorable for business and employment growth that would lead to economic development of distressed areas.

Opponents argued, however, that tax incentives are weak inducements that only redistribute business and job opportunities that would have occurred elsewhere. There would be no net increase in employment and hence the tax incentives provide none of the expected offsetting benefits for the Federal Government, such as an increased tax base or decreased transfer payments. Moreover, said these opponents, it is not clear that providing tax breaks to segments of the population with the means to start or expand a business will improve the economic potential of EZ residents. Economic growth in distressed areas, where skill levels and other resources are very low, may require more than just tax incentives to spark the development process. Although versions of EZ bills addressed these criticisms with specific grant programs, urban advocates argued that the stimulus might still be too small to accomplish meaningful change.

(For more information on this subject, see CRS Issue Brief 89050.)

LEGISLATION

H.R. 11 (Rostenkowski)

Revenue Act of 1992. As passed by the House, the measure provides for 50 zones (25 rural, 25 urban) to be designated

between 1993-96. Zones will receive $2.5 billion in tax incentives including: a 50% tax exclusion for individuals on capital gains and deferral of capital gains taxes if reinvested in a zone business, a 15% employer wage credit, deduction of equity investments in zone businesses, ordinary loss treatment of EZ stock losses, increased expensing of depreciable property in first year of business, and greater latitude for States in using tax-exempt bonds to make loans to EZ businesses. Provides additional $2.5 billion for "Weed and Seed" programs. Grants will be made to zones to help with crime control, job training, education, health, nutrition, housing, and community development. Approximately 80% of grants will go to urban EZs. Requires that EZs be supported by State and local governments and that the Department of Treasury and GAO submit studies to Congress analyzing the effectiveness of the Federal EZ program. As marked up and amended by the Senate, the number of zones increased to 125, and capital gains exclusion and Weed and Seed provisions were eliminated. The employer wage credit is increased to 30% and any business hiring a zone resident is eligible for the Targeted Jobs Tax Credit. Includes accelerated deprecation schedules for zone business property and expanded use of low-income housing credit. The conference version passed by both chambers retains 50 zones, the 50% capital gains exclusion, and some direct expenditures to EZs for social programs. Introduced Jan. 3, 1991; referred to Committee on Ways and Means. Reported June 30, 1992 (H.Rept. 102-631). Passed House, amended, July 2, 1992. Reported by Senate Committee on Finance Aug. 3, 1992. Passed Senate, amended, Sept. 29, 1992. Conference Report (H.Rept. 102- 1034) filed October 5. Pocket vetoed, effective Nov. 5, 1992.

J. F. Hornbeck

VETERANS' BENEFITS AND SERVICES

MLC-110

VETERANS' PROGRAMS

...102d Congress acted on numerous proposals...

The 102d Congress acted on numerous legislative proposals related to U.S. veterans and Federal veterans' programs. Many of these stemmed from issues and concerns raised as a result of the Persian Gulf War, which began early in the first session of the Congress. Legislation was enacted to aid Persian Gulf military personnel transition back to work and family life through extending eligibility for services under existing veterans' programs and creating new services targeted to specific concerns. Proposals were enacted to open eligibility to the readjustment counseling program (formerly only available to Vietnam-Era veterans), create a registry of veterans experiencing Persian Gulf War-related health problems, and to establish a new marriage and family counseling program for Persian Gulf veterans and their families.

Interest in aiding Persian Gulf War veterans inspired legislation to expand certain benefits for all veterans. Education benefit payments under the Montgomery GI Bill increased twice during the 102d Congress, and were made subject to annual cost-of-living adjustments, based on the Consumer Price Index. Group life insurance benefits were increased and the veterans' reemployment rights law was updated and enhanced.

Other legislation was enacted in response to issues facing specific groups of veterans. Concerns that up to a third of the nation's homeless population may be veterans lead Congress to extend existing homeless programs and create new programs to reach this group. Proposals were enacted to require the VA to assess the degree of unmet need among homeless veterans and develop a plan in coordination with other public and private agencies to provide needed services. New programs were authorized to demonstrate comprehensive homeless service centers at 4 medical centers, to place veterans' benefits counselors in VA homeless program cites, and to make grants to nonprofit agencies to acquire, expand, or renovate facilities for homeless veterans. Several existing homeless veterans' programs were also reauthorized. In addition, proposals were enacted aimed at improving health services to veterans suffering from post- traumatic stress disorder and women veterans, including those who were sexually assaulted during their military service.

In the disability compensation area, landmark legislation was enacted to grant compensation for certain diseases associated with exposure to Agent Orange. In addition, eligibility for compensation for health problems linked to atomic radiation exposure was expanded to cover additional diseases. Congress also revised the basis used for setting payments to surviving spouses under the disability and indemnity compensation program. In addition, Congress adopted a 3% cost-of-living adjustment for compensation payments made to all eligible veterans and survivors.

Amendments were also adopted to extend assistance under veterans' employment and housing programs. Revisions were adopted to increase the number of disabled veterans' outreach specialists. Eligibility of Vietnam veterans for employment services and the veterans' readjustment authority were also extended. And reservists were made eligible for VA housing loan guarantees.

For FY1992, Congress appropriated $35.1 billion for the Department of Veterans Affairs. For FY1993,

$34.7 billion was appropriated. (For further information, see CRS Issue Brief 91053, *Veterans' Programs*, by Anne Stewart and Mary Smith.)

LEGISLATION

P.L. 102-3, H.R. 3
Veterans' Compensation Amendments of 1991. Passed House Jan. 23, 1991. Passed Senate Jan. 24, 1991. Signed into law Feb. 6, 1991.

P.L. 102-4, H.R. 556
Agent Orange Act of 1991. Passed House Jan. 29, 1991. Passed Senate Jan. 30, 1991. Signed into law Feb. 6, 1991.

P.L. 102-16, H.R. 180
Veterans' Education, Employment, and Training Amendments of 1991. Passed House Feb. 5, 1991. Passed Senate Mar. 7, 1991. Signed into law Mar. 22, 1991.

P.L. 102-25, S. 725
Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991. Provisions derived from H.R. 1175, passed by the House Mar. 13, and S. 578, passed and amended by the Senate with the text of S. 578 Mar. 19, 1991. House and Senate passed conference agreement Mar. 21, 1991. Signed into law Apr. 9, 1991.

P.L. 102-27, H.R. 1281
Dire Emergency Supplemental Appropriations for FY1991. House and Senate passed conference report (H.Rept. 102-29) Mar. 22, 1991. Signed into law Apr. 11, 1991.

P.L. 102-40, H.R. 598
Department of Veterans Affairs Health Care Personnel Act of 1991. Passed House Jan. 30, 1991. Passed Senate Apr. 17 (text of S. 675). Signed into law May 7, 1991.

P.L. 102-54, H.R. 232
Amendments to Veterans Programs for Housing and Memorial Affairs. Passed House Feb. 6, 1991. Passed Senate May 16, 1991. House concurred in Senate amendments May 22, 1991. Signed into law June 13, 1991.

P.L. 102-86, H.R. 1047
Veterans' Compensation Programs Improvement Act of 1991. Passed House Apr. 11, 1991. Passed Senate, amended, July 25, 1991. Signed into law Aug. 14, 1991.

P.L. 102-127, S. 868
Restores educational benefits lost due to veterans or reservists being called to active duty. Reported by the Senate Veterans' Affairs Committee July 26, 1991. Signed into law on Oct. 11, 1991.

P.L. 102-139, H.R. 2519
DVA, HUD, and Independent Agencies Appropriations, 1992. Passed House June 6, 1991. Passed Senate, amended, July 18, 1991. Signed into law Oct. 28, 1991.

P.L. 102-152, H.R. 1046
Veterans' Compensation Rate Amendments of 1991. Passed House July 29, 1991. Passed Senate, amended, Oct. 28, 1991. Signed into law Nov. 12, 1991.

P.L. 102-291, S. 2378
extends certain expiring authorities for VA programs for one year. Passed Senate April 30, 1992. Passed House May 7, 1992. Signed into law May 20, 1992.

P.L. 102-368, H.R. 5620
FY1992 Supplemental Appropriations Bill. Reported in House July 21, 1992 (H.Rept. 102-672). Passed House July 28, 1992. Reported in Senate Sept. 10, 1992 (S.Rept. 102-395). Passed Senate Sept. 15, 1992. Signed into law Sept. 23, 1992.

P.L. 102-389, H.R. 5679
VA, HUD, Ind. Agencies Appropriations Bill, FY1993. Reported in House July 23, 1992 (H.Rept. 102-710). Passed House July 29, 1992. Reported in Senate Aug. 3, 1992. Passed Senate Sept. 9, 1992. Conference report (H.Rept. 102-902) agreed to by House and Senate Sept. 25, 1992. Signed into law Oct. 6, 1992.

P.L. 102-405, S. 2344
Veterans Health Care Amendments of 1992. Passed Senate Mar. 11, 1992. Passed House, amended, May 12, 1992. Conference report (H.Rept. 102-871) agreed to by the House Sept. 24 and the Senate Sept. 25, 1992. Signed into law Oct. 9, 1992.

P.L. 102-484, H.R. 5006
Department of Defense Authorization Act, 1993. Passed House June 5, 1992. Passed Senate in lieu of S. 3114 Sept. 19, 1992. Conference report (H.Rept. 102-966) agreed to in House Oct. 3 and in Senate Oct. 5, 1992. Signed into law Oct. 23, 1992.

P.L. 102-510, S. 2322
Veterans' Compensation COLA Act of 1992. Reported July 20, 1992 (S.Rept.102-322). Passed Senate July 28, 1992. Passed House, in lieu of H.R. 4244, Aug. 4, 1992. Signed into law Oct. 24, 1992.

P.L. 102-547, H.R. 939
Provides eligibility to members of the selected reserve for the veterans' home loan program. Passed House Mar. 3, 1992. Passed Senate, in lieu of S. 3108, Oct. 1, 1992. Sigend into law Oct. 28, 1992.

P.L. 102-585, H.R. 5193
Veterans' Health Care Act of 1992. Reported July 24, 1992 (H.Rept.102- 714). Passed House Aug. 4, 1992. Passed Senate, in lieu of S. 2575, Oct. 1, 1992. Final agreement Oct. 8, 1992. Signed into law Nov. 4, 1992.

P.L. 102-568, H.R. 5008
Dependency and Indemnity Compensation Reform. Reported by Veterans Committee July 29, 1992 (H.Rept. 102-753). Reported by Committeee on Ways and Means Aug. 6, 1992 (H.Rept. 102-753, Part II). Passed House, amended, Aug. 10, 1992. Passed Senate, in lieu of S. 2328, Sept. 22, 1992. Signed into law Oct. 29, 1992.

P.L. 102-578, S. 775
Veterans' Radiation Exposure Amendments of 1992. Reported Aug. 2, 1991 (S.Rept. 102-139). Passed Senate, amended, Nov. 20, 1991. Passed House, amended, Sept. 30, 1992. Signed into law Oct. 30, 1992.

P.L. 102-590, H.R. 5400
Comprehensive Service Programs for Homeless Veterans Act of 1992. Reported July 24, 1992 (H.Rept. 102-721). Passed House July 27, 1992. Passed Senate, in lieu of S. 2512, Sept. 8, 1992. Signed into law Nov. 10, 1992.

H.R. 2280 (Montgomery)
Veterans' Health Care and Research Amendments of 1991. Passed House June 25, 1991. Passed Senate Nov. 20, 1991, amended with the text of S. 869. House agreed to Senate amendment, with amendment, Nov. 25, 1991. See P.L. 102-405 (S. 2344).

H.R. 2890 (Montgomery)
Establishes limits on the price of drugs procured by the DVA. Reported by Committee on Veterans' Affairs (H.Rept. 102-384, Part I) Nov. 25, 1991. Reported by Committee on Energy and Commerce (H.Rept. 102-384, Part II) Sept. 22, 1992. Passed House Sept. 22, 1992. See H.R. 5193.

S. 1553 (Cranston)
Establishes a program of marriage and family counseling for certain veterans of the Persian Gulf War and their families. Reported Sept. 24, 1991 (S.Rept. 102-159). Passed Senate, amended, Nov. 15, 1991. See S. 2344.

S. 2973 (Cranston)
Women Veterans Sexual Trauma Services Act of 1992. Reported to Senate, amended, (S.Rept. 102-409) Sept. 17, 1992. Passed Senate, amended, Oct. 1, 1992. See H.R. 5193.

Anne Stewart and Mary Smith

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